

**Mozian, Alicia**

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**To:** Hollister, Timothy  
**Cc:** Stuart.Manley@ghd.com  
**Subject:** Hiawatha Lane comments/questions

Dear Tim,

I am drafting my staff report for your project and have some questions/comments:

1. What is the fuel source for the buildings? I believe you said natural gas but wanted to confirm.
2. Please clarify the estimated cubic yards of fill to be removed from the site.
3. At the next meeting, please plan on spending some time explaining the details of Sheet Sp-4.2 the "Erosion Control Phasing Plan." The Commission had asked that a more detailed construction phasing plan be submitted.
4. Do you plan on registering the site with the State of CT an erosion and sediment/stormwater management plan?
5. Consideration of moving or reducing the size of the proposed stockpile location in the southwest corner of the property.
6. Consideration of where snow will be stockpiled and what type of de-icing measures will be used to treat the roadways within the complex.
7. Submission of response to GHD's recommendations listed in their July 11, 2018 report. This includes, but is not limited to, a detail of the green roof including an operation and maintenance plan and a maintenance plan for the Conservation Easement area where the wetland restoration work is proposed.
8. What is the applicant's plan for ensuring long-term maintenance of the stormwater treatment system components?
9. Has a Phase I site assessment been completed? If so, may we have a copy?
10. The Commission had asked that the corner of the buildings, parking lots and wetland be staked prior to the next site walk. Given the dense vegetation growth this time of year, perhaps the 30 ft. upland review area line could be staked instead of the wetland boundary.

In addition, FYI, I am still awaiting comments from the Engineering Department.

Thank you.

Alicia

**STAFF REPORT**  
**Application #IWW-10619-18**  
**#WPL-10659-18**

**FILE COPY**

**Lot A5/4, Lot A5/5, 28,36,38,39,41,42,43,44,45,47 Hiawatha Lane**

**Public Hearings: July 18, 2018, September 12, 2018**

**Prepared August 14, 2018**

**Receipt Date:** IWW Application: May 16, 2018  
**Application Classification:** Plenary

**Application Request:**

Applicant is proposing to redevelop several existing residential lots to build a 187 unit 8-30 g affordable housing project. The existing site includes 10 single family homes and two vacant lots. These homes will be demolished. Two lots to the north will be combined to form a new .75 acre parcel. The remaining eight house lots and two vacant lots to the south will be combined to form an 8.07 acre parcel. The north lot will have a three story, multi-family residential building with below ground and at-grade parking. The south lot will have three, three story multi-family buildings and one, four-story building with a connecting underground parking garage and at-grade parking. Related appurtenances include a playground and recreation area, a courtyard, walkways, paved drives and a stormwater management system.

The project is proposed to be served by public water and connection to a new sanitary sewer line with sanitary manholes and other related improvements along approximately 1,600 linear feet of Hiawatha Lane and Davenport Avenue within the road right-of-way.

The on-site impervious coverage will increase from 1.1 acres to 3.9 acres.

**Regulated Activities:**

- a. Southern Wetland System: There are four buildings proposed in the southwest portion of the site (Buildings A, B, C and D.) Of the four, two are located adjacent to a large wetland system that measures approximately 2.89 acres in size, (Buildings A and B.) All four buildings would be located outside the 75 ft. upland review area and the at-grade parking and driveway shoulders would be located outside the 30 ft. upland review area as well. No work is proposed within the wetland. The only work proposed is within the 20 ft. upland review area and is referenced by the applicant as an "Ecological Enhancement Zone" where invasive shrubs, vines and other vegetation would be removed and or controlled using herbicide applications. New, native trees, shrubs and ground cover planting would be installed. The wetland itself would be placed within the Conservation Easement Area which would be permanently demarcated with wood posts positioned 50 ft. on-center along the wetland boundary.
- b. Northern Wetland System: There is another building (Building E) with both underground and at-grade parking proposed in the northern portion of the property. All are located more than 75 ft from on-site wetlands.

- c. Eastern Wetland/Brook System: The regulated area in this portion of the project is restricted to that which is directly next to Indian Brook and is located in a confined channel which mimics the top of the stream's embankment. The proposed regulated activity in this area is the Sewer Line Connection. The sewer line connection is proposed to cross Indian Brook. Work is proposed to take place in the street with the new sewer line to be installed beneath the brook. The work is located within the 20 ft upland review area and the WPLO area of Indian Brook.

### **Plans Reviewed:**

"The Village at Saugatuck, Town of Westport," prepared for Summit Saugatuck, LLC

1. Plans prepared by Divney, Tung, Schwalbe, LLP
  - a. Key Plan, SP-0.1, Scale 1" = 50', dated May 7, 2018
  - b. Layout Plan (North), SP-1.1, Scale 1" = 30', dated May 7, 2018
  - c. Layout Plan (South), SP-1.2, Scale 1" = 30', dated May 7, 2018
  - d. Grading and Utility Plan (North), SP-2.1, Scale 1" = 30', dated May 7, 201
  - e. Grading and Utility Plan (South), SP-2.2, Scale 1" = 30', dated May 7, 2018
  - f. Landscape Plan (North), SP-3.1, Scale 1" = 30', dated May 7, 2018
  - g. Landscape Plan (South), SP-3.2, Scale 1" = 30', dated May 7, 2018
  - h. Erosion Control Plan, SP-4.1, Scale 1" = 50', dated May 7, 2018
  - i. Erosion Control Phasing Plan, SP-4.2, Scale 1" = 80', dated May 7, 2018
  - j. Erosion Control Details, SP-4.3, Scale As Shown, dated May 7, 2018
  - k. Site Details, SP-5.1, Scale As Shown, dated May 7, 2018
  - l. Site Details, SP-5.2, Scale As Shown, dated May 7, 2018
  - m. Site Details, SP-5.3, Scale As Shown, dated May 7, 2018
  - n. Site Details, SP-5.4, Scale As Shown, dated May 7, 2018
2. Plans prepared by Redniss & Mead
  - a. Site Development Plan Depicting Hiawatha Lane Sanitary, SE-1, Scale 1' = 30', dated May 7, 2018
  - b. Details Depicting Hiawatha Lane Sanitary, SE-2, Scale NTS, dated May 7, 2018
  - c. Pump Station Details Depicting Hiawatha Lane Sanitary, SE-3, Scale NTS, dated May 7, 2018
  - d. Cross Sections Depicting Hiawatha Lane Sanitary, SE-4, Scale As Noted, dated May 7, 2018
3. Plans prepared by Lewis Associates Land Surveying and Civil Engineering
  - a. Existing Conditions Plan Topographic Survey of Properties Located on Hiawatha Lane, Westport, Connecticut, Sheet 1 of 3, Dated March 17, 2016 and last revised to January 3, 2018.
  - b. Existing Conditions Plan Topographic Survey of Properties Located on Hiawatha Lane, Westport, Connecticut, Sheet 2 of 3, Dated March 17, 2016 and last revised to January 3, 2018
  - c. Existing Conditions Plan Topographic Survey of Properties Located on Hiawatha Lane, Westport, Connecticut, Sheet 3 of 3, Dated March 17, 2016 and last revised to January 3, 2018

### **Permits/Applications filed:**

1. February 21, 2018, Conservation Commission approved Application #IWW/M-10540-18 for Amendment of Wetland Boundary Map A5 and B5.
2. Application #IWW,WPL-10619-18 of Summit Saugatuck for 187 Unit 8-30g affordable housing project was submitted May 14, 2018. The WPLO portion of the application was withdrawn July 23, 2018 in order to allow more time to review the application and was resubmitted on August 8, 2018.

**WPLO:** There are two watercourses on the property. Indian Brook is located in the vicinity of the sewer crossing in the eastern portion of the project. An unnamed tributary to Indian Brook flows in the southern portion of the lot. The WPLO boundary is established 15 ft. from the wetland boundary associated with both the brook and the tributary.

The only regulated activity pursuant to the WPLO is the sewer connection taking place within Hiawatha Lane. The proposed sewer line would be placed beneath the brook which exists within a culvert beneath the street.

**IWW Defined Resource (wetland or watercourse)**

Wetlands and Watercourses occur on the subject property to the south and east.

The wetlands were flagged and the boundary was adopted by the Conservation Commission at its February 21, 2018 hearing of Application #IWW/M-10540-18. The boundary was initially flagged by Soil Scientist, Thomas Pietras, then confirmed by William Kenny. The Commission also retained the services of soil scientist, Eric Davison, who verified the flaggings by Mr. Pietras and Mr. Kenny.

**Property Description:** The ten existing, single family properties range in size from 0.35 to 0.81 acres, while the two undeveloped parcels are 0.16 and 2.85 acres in size. Most of the lands surrounding the single family houses are maintained in grassed lawns with scattered trees and shrubs. The southern portions of House #38, 32 & 44 plus a large portion of Parcel 4 are wooded. A State of CT-owned property is situated to the north of House # 38, 32 & 44 and to the west of House #36. Formerly, this State property contained buildings and asphalt parking associated with the I-95 toll booths. The toll booths were taken out in the late 1980's. These state lands are presently vacant and covered with a mix of grass fields with grades falling generally to the south. Elevations range from 32 feet at the northeastern corner of 28 Hiawatha Lane to just below 10 feet in the broad flatlands on Parcel 4.

In addition:

- a. The property is serviced by public water and on-site septic systems for the existing residences. A sewer line extension is proposed for the new proposed project.
- b. The property is not located within the Aquifer Protection Zone nor a groundwater recharge area.
- c. Property is outside the Coastal Area Management zone.
- d. The Town of Westport Wetlands Inventory prepared by Flaherty, Giavara Associates describes this system as a streamside floodplain with a wooded swamp and watercourse. A portion of the perimeter of this wetland system does contain tidal marsh vegetation. The perimeter of the wetland is developed residentially. There is evidence of water ponds temporarily within the wetland system.
- e. The WPLO boundary is 15' from the wetland boundary. The outlet of this wetland system is Indian Brook.
- f. The 100 year floodplain as designated by FEMA is set at elevation 10 ft. on this property. No work is proposed within this area. This floodplain is located within the southern wetland system.
- g. Landscape position is a backslope. Land surface shape is linear/linear.

**Wetlands Description:** Wetland soils are present on the southern portions of House #'s 39, 41 and 43 plus a large portion of Parcel 4.

A soil report summary was prepared by Tom Pietras on March 11, 2016 based on his inspection of the property on March 8, 2016. He describes the following wetland soils occurring on the property:

**Raypol silt loam (12):** The Raypol silt loam is a deep, poorly drained, friable loamy textured soil that developed over sandy and gravelly, glacial outwash. A water table is typically present within a foot of the surface from late fall through mid-spring.

**Scarboro muck (15):** this soil is a deep, very poorly drained soil with a thin (less than 15 inches) mucky surface that is underlain by sandy and gravelly, glacial outwash. This soil is subject to shallow (0 to 6 inches) seasonal ponding. The seasonal water table typically remains within six inches of the surface. On March 8, 2016, much of the Scarboro soil map unit identified on Parcel 4 contained shallow inundation that in places exceeded a foot deep. The wetlands on Parcel 4 may contain areas of deeper muck.

An intermittent watercourse discharges into the wetlands from a culvert which is located on the eastern side of 39 Hiawatha Lane. The watercourse flows in a southwesterly to westerly direction through the wetlands which are located on the southern portions of 39, 41 and 43 Hiawatha Lane and eventually into the broad wetlands on Parcel 4. A second intermittent watercourse channel is located in the far southern portion of 39 Hiawatha Lane and intersects with the first intermittent watercourse. The second watercourse extends onto property at 37 Hiawatha Lane where it connects with a larger brook. The Town of Westport GIS map shows a small pond, or inundated area, in the southern portion of 39 Hiawatha Lane within the delineated wetlands. There is evidence of a former, very shallow pond which has been silted-in. The intermittent watercourse which discharges from the culvert at 39 Hiawatha Lane passes through the former pond which presently supports young forested swamp vegetation.

The wetland area in the vicinity of the sewer crossing was flagged by soil scientist, William Kenny. He determined the soils in that area to be comprised of Udorthents which are soils that have been filled or excavated to a depth greater than 2 ft. and are well drained to somewhat poorly drained.

According to the State of Connecticut Surficial Materials Map, the project area contains glacial meltwater deposits that were mapped as containing sand and gravel. Glacial meltwater deposits consist of layers of well-sorted to poorly sorted gravel, sand, silt and clay laid down by flowing meltwater in glacial streams and lakes which occupied the valleys and lowlands of Connecticut during the retreat of the last glacial ice sheet. The sand and gravel map unit is composed of mixtures of gravel and sand within individual layers and as alternating layers. Sand and gravel layers generally range from 25 to 50 percent gravel and 50 to 75 percent sand particles.

## **Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations**

### **6.1 GENERAL STANDARDS**

- a) disturbance and pollution are minimized;
- b) minimize height, width, length of structures are limited to the minimum; dimension to accomplish the intended function;
- c) loss of fish, other beneficial organisms, wildlife and vegetation are prevented;
- d) potable fresh water supplies are protected from dangers of drought, overdraft, pollution, misuse and mismanagement;
- e) maintain conservation, economic, recreational and aesthetic qualities;
- f) consider historical sites

**Discussion:** In a report dated May 10, 2018 by William Kenny of William Kenny Associates, to the applicant, he summarizes that the proposed residential redevelopment is not expected to have adverse impacts to wetlands or watercourses on or off the site. The proposed project has been designed to avoid direct and indirect adverse impact to wetlands and watercourses. Direct adverse impact will be avoided as no wetlands or watercourse areas will be eliminated or degraded.

Mr. Kenny writes that indirect adverse impacts will be avoided by managing the quality and quantity of stormwater runoff before it enters wetlands and watercourse on and off the property. The applicant proposes to enhance wetlands through the removal of construction debris and other residential bulky waste, the control of invasive vegetation and the installation of native vegetation. In addition, the proposed ornamental landscape will be managed in accordance with Northeast Organic Farmers Association standards.

The Conservation Commission has retained the services of GHD to aid in its review of the application and what, if any, impact there will be to wetlands and watercourses as defined by the "Inland Wetland and Watercourse Regulations of the Town of Westport" and the Town's "Waterway Protection Line Ordinance." GHD's analysis of proposed impacts is summarized in its memo to the Commission dated July 11, 2018.

Based on the documents provided to GHD, it found that:

- The applicant is not proposing any direct impact to wetlands or waterways on or adjoining the site;
- The applicant has identified that potential secondary impact to wetlands and watercourse related to construction (short-term) and increased impervious surfaces and stormwater run-off (long-term) could occur, if unmitigated.
- The applicant has provided an analysis and discussion of proposed mitigation measures to address potential short-term and long-term adverse impacts on the wetland and watercourse as a result of the project. The proposed mitigation measures include an erosion and sedimentation control plan to address potential short-term impacts due to construction activities and a

comprehensive stormwater management plan to address potential long-term adverse impacts to the wetlands and watercourse.

- In all, GHD listed 22 action items that were to be addressed that would better protect the wetlands and watercourses.

## 6.2 WATER QUALITY

- flushing rates, freshwater sources, existing basin characteristics and channel contours will not be adversely altered;
- water stagnation will neither be contributed nor caused;
- water pollution will not affect fauna, flora, physical or chemical nature of a regulated area, or the propagation and habitats of fish and wildlife, will not result;
- pollution of groundwater or a significant aquifer will not result (*groundwater recharge area or Aquifer Protection Overlay Zone*);
- all applicable state and local health codes shall be met;
- water quality will be maintained or improved in accordance with the standards set by federal, state, and local authority including section 25-54(e) of the Connecticut General Statutes
- prevents pollution of surface water

### Discussion:

The proposed development is slated to be served by city water and sewer, though the Town's approval to connect to the sewer has not yet been granted. The buildings would be heated by gas. Any existing underground oil tanks now servicing the existing homes would be removed. A Phase I was conducted by the applicant but has not yet been submitted.

The proposed development will increase the on-site impervious surface coverage by approximately 2.8 acres. Stormwater runoff will be installed and maintained to meet the Town's drainage design standards for water quality which includes treating the first inch of runoff from added impervious surfaces. The treatment train proposed will drain stormwater flowing from impervious surfaces into hooded deep sump catch basins, which will help remove oil and grease and sediment. Runoff will then drain into recharge chambers that will infiltrate the stormwater into the surrounding soils or water quality basin which will further remove pollutants from runoff. Runoff from the remaining impervious surfaces will flow to the stormwater basins and raingardens and treated via infiltration in the surrounding soils. Rainwater that lands on the proposed parking garage's 11,000 sq.ft. green roof will be treated and detained by passing through the green roof vegetated medium into a roof drain system. Excess stormwater from the green roof will flow to either the subsurface recharge chamber to the north or the stormwater basin to the south for infiltration and further treatment.

Moreover, the 2.89 acre conservation easement area which encompasses the vast majority of the on-site wetland will be left undisturbed. A 20 ft.- 50 ft. wide vegetated buffer will be enhanced with native plantings that will act as additional on-site filtering of any overland flow.

The Commission's consultant, GHD, has made recommendations for submission of additional information that would detail the specifications of the green roof installation and its operation and maintenance. They have also asked for an explanation as to how sand and de-icing chemicals will not adversely impact the wetland or stormwater management systems. Commission members have also asked that consideration be given as to the location of snow piles from plowing being careful not to locate them in the wetlands or buffer area.

### **6.3 EROSION AND SEDIMENT**

- a) temporary erosion control measures shall be utilized during construction and for the stabilization period following construction;
- b) permanent erosion control measures shall be utilized using nonstructural alternatives whenever possible and structural alternatives when avoidable;
- c) existing circulation patterns, water velocity, or exposure to storm and flood conditions shall not be adversely altered;
- d) formation of deposits harmful to aquatic life and or wetlands habitat will not occur;
- e) applicable state, federal and local guidelines shall be met.

Discussion: The erosion and sediment controls are probably one of the most significant considerations of this particular design due to the amount of proposed cutting and the proximity to the wetland. The site measures 8.8 acres total, 8.1 acres in the southern most section of the property where Buildings A,B, C and D are located. Building E is located in the northern section on .75 acres. All buildings will be served by both at-grade parking spaces and underground parking garages.

The property slopes from north to south with some steep slopes located to the north. The applicant has stated that there will be net cutting of the property with an estimated 27,500 cubic yards of fill being removed from the site. Staff has asked for confirmation of this number. For perspective, assuming a typical dump trucks has a capacity of 20 yards, that equates to 1,375 dump truck loads of fill being hauled off the property.

The applicant has testified that the total site disturbance is estimated at 5.8 +/-acres with only 5 acres of land being cleared at a time and that the sediment and erosion control plan, is meant to also serve as the construction phasing plan, Sheet SP-4.2. The Conservation Easement Area measures 2.9 acres. This, plus the area to be developed equals the total 8.8 acres. The State of Connecticut requires that if the site disturbance is greater than 5 acres, registration of the site with the CT DEEP is required.

The applicant is proposing the use of double-rows of silt fencing, sediment traps, stockpiles with silt fence placed at a minimum of 55 ft. from any wetlands, wheel wash areas, dewatering pits, coir logs, catch basin inserts, mud-tracking pads. In addition, the Erosion Control Plan, Sheet SP-4.1 states that a Site Monitor will be employed that will report to the Conservation Department on a weekly basis and after a rainfall event of .5 inches or greater. Reporting will take place during the initial clearing, excavation, foundation construction, installation of sedimentation controls and time of final site stabilization.

The sediment traps will be converted to stormwater infiltration basins at the end of construction.

Stockpile areas are located throughout the project, one being in the far southwest corner of the developed area adjacent to the wetland in the location of the proposed playground. The Commission has asked that the applicant reconsider moving it further from the wetland if possible. These piles will be hydro-seeded. In addition, any areas not worked for more than seven days are to be hydro-seeded.



The Commission's consultant, GHD, reviewed the erosion and sedimentation control plan and determined that the plans are adequate and meet the goal of trapping particulates at the source by promptly stabilizing disturbed areas, avoiding concentration of runoff, avoiding contamination of existing storm drains and maintenance of controls on a weekly basis and after storm events.

#### **6.4 NATURAL HABITAT STANDARDS**

- a) critical habitats areas,
- b) the existing biological productivity of any Wetland and Watercourse shall be maintained or improved;
- c) breeding, nesting and or feeding habitats of wildlife will not be significantly altered;
- d) movements and lifestyles of fish and wildlife (plant and aquatic life) will not be significantly affected;
- e) periods of seasonal fish runs and bird migrations shall not be impeded;
- f) conservation or open space easements will be deeded whenever appropriate to protect these natural habitats.
- g) Planting plan included with application as mitigation for the proposed activities

Discussion: The wetland areas on the site were evaluated for their ability to provide wildlife habitat by two soil and wetland scientists, Thomas Pietras and William Kenny. They describe the wetlands as being grouped into three areas: a forested swamp in the southeastern portion of the site primarily behind 39, 41 and 43 Hiawatha Lane, a shrub-sapling swamp/forested swamp complex in the southwestern portion primarily behind 43, 45 and 47 Hiawatha Lane, and Indian Brook and its fringe wetland.

In his June 12, 2016 report, Mr. Pietras states that on May 16, 2016 the inundated portion of the swamp area was investigated for amphibians and reptiles. A dip net was used to sample the waters and identify any species. No obligate vernal pool species were found. An American toad, green frog, several waterfowl and song bird species were sighted.

Mr. Pietras found that the forested swamp, intermittent watercourse, patches of upland forest and the dense woody understory and herbaceous layer provide food, cover and nesting sites for wildlife. However, the presence of a residential neighborhood to the north and the railroad to the south reduce the overall wildlife habitat value. Therefore, in general the forested swamp wetlands was determined to provide moderate wildlife habitat.

The shrub-sapling swamp and forested swamp are situated primarily within the vacant lot behind #43, 45 and 47 Hiawatha Lane. Mr. Pietras rated this area as moderate-high quality wildlife habitat for a range of species including reptile, amphibian, waterfowl, avian species and mammals.

Mr. Kenny re-investigated the site in April and September of 2017. In his May 10, 2018 report to the applicant, he also includes the evaluation of Indian Brook and its fringe wetlands. They were evaluated as having moderate wildlife habitat.

Mr. Kenny finds that the on-site wetlands will remain unchanged and or be slightly improved. The capacity of the wetlands and watercourses to provide wildlife habitat will be slightly improved as the

wetland buffer areas will be cleaned of debris and vegetated with native plantings that will benefit wildlife using the wetlands.

A consultation of the CT DEEP Natural Diversity Data Base map for Westport was reviewed and no state or federal listed species and significant natural communities were identified in the forested swamp or in any portion of the of the project area.

Both of these wetland areas are proposed to be protected within a conservation easement area.

## **6.5 DISCHARGE AND RUNOFF**

- a) the potential for flood damage on adjacent or adjoining properties will not be increased;
- b) the velocity or volume of flood waters both into and out of Wetlands and Watercourses will not be adversely altered;
- c) the capacity of any wetland or watercourse to transmit or absorb flood waters will not be significantly reduced;
- d) flooding upstream or downstream of the location site will not be significantly increased;
- e) the activity is acceptable to the Flood & Erosion Control Board and or the Town Engineer of the municipality of Westport

Discussion: Discharge and runoff and water quality and linked very closely in this design proposal. As no direct impact to the wetland is anticipated, the indirect impact may come from how effective the stormwater runoff is treated before it is discharged to the ground or the wetlands. The treatment train for handling stormwater runoff is reviewed more thoroughly in the "Water Quality" analysis above.

The Flood and Erosion Control Board reviewed and approved the application at is July 11, 2018 meeting. As of this writing, the Engineering Department is still completing its review.

The review completed by the Commission's consultant, GHD, concludes in its July 11, 2018 report that: "The stormwater management plan presented incorporates a variety of accepted best management practices to address stormwater quantity and stormwater quality generated by the project prior to its discharge to the wetland." GHD lists in that same report inadequacies that they saw in the plan and provides recommendations for plan changes and details that, if done and found acceptable, would "appear to be adequate to mitigate potential long-term adverse impacts to the wetlands and waterways."

However, as with any stormwater management plan, it is only as effective as it is maintained. This requires routine inspection and maintenance for the entire life of the project. The applicant will need to indicate how they intend to meet this responsibility.

## **6.6 RECREATIONAL AND PUBLIC USES**

- a) access to and use of public recreational and open space facilities, both existing and planned, will not be prevented;
- b) navigable channels and or small craft navigation will not be obstructed;
- c) open space, recreational or other easements will be deeded whenever appropriate to protect these existing or potential recreational or public uses;

- d) wetlands and watercourses held in public trust will not be adversely affected.

Discussion: A playground recreation area is proposed in the southwest corner of the project area behind Building B. This is located outside the WPLO area and approximately 60 ft. at minimum from the wetland boundary in that area. There is also an area between Buildings A and B described as "Hiawatha Green." This area sits above the below ground parking garage. The current application will not have a significant impact on recreational and public uses.

As of this writing, the Conservation Department is awaiting comments from the Town Engineering Department and the Commission's consultant as well as answers to the questions the Commission had at its last meeting. See packet for list.



WETLAND INSPECTION

By: PS  
Date: 10/19/81

Identification No: B5-1  
Quad Number: B5

General Description: Pond Surrounded By Wooded Swamp

Size: 5-10 Acres

Hydraulic Location: Isolated, Streamside, Deltaic, Lakeside  
Geologic Location: Floodplain, Terrace, Upland, Delta  
Surficial Geology: Till and Salt-Marsh Deposits (peat and  
muck intermixed or interbedded with silt  
and sand)

Watercourse Type: Intermittent, Permanent

Vegetation Class: Open Water 50%  
Marsh  
Shrub Swamp  
Wooded Swamp 50%  
Bog  
Flood Plain  
Fresh Meadow

Dominant Vegetation: West of Saugatuck Road: Red Maple, Pin  
Oak  
East of Saugatuck Road: Phragmites,  
grasses, Marsh Elder

Perimeter: Forest  
Meadow  
Agriculture  
Residential 80%  
Commercial  
Industrial  
Open Water  
Other - Tidal Marsh - 20%

Observed Wildlife: Ducks

Visability: High

Outlet: Indian Brook - Long Island Sound

Comments: 1. Dumping (gravel, trash) off of Saugatuck Road.

9/14/18

Mtg w/ Amrik, Dave Ginter, Mark

Bldg E - need additional test pit but they don't own the property yet. Amrik concerned gallery elev. too low and needs more specific test pit data to confirm. However, they could go to a shallower system if need be.

Are there interior floor drains in garage?

Applicant There will be interior floor drains.

They'll go to oil & grit separator which will go to sanitary sewer. Not storm sewer.

Footing Drains - where is discharge going? ~~whole garage~~

Bldg E - gravity to catch basin + sewer<sup>13</sup> drain.

Bldg A - ~~whole garage~~ - (pump up) to basin

\* Will need to figure out how pump will operate in case of power failure or eliminate pump & go to a gravity system which would require enlarging the proposed galleries and or basins.

May end up expanding drainage gallery to include behind Bldg C under play lot. That is better perc rates too.

Still, level spreader & basin off Bldg A will remain as it is discharge for gallery in the front of Bldg C & D.

Will hit gw during construction

All ~~sed~~ basins will be used for ~~3~~ sed basins ~~the~~  
/ Rangadens

during construction.

~~cont~~ frac tank should be available on site  
or dirt bag

Bldg A is 1.9' A gw

plan on handling that by the footing drains : crushed stone beneath  
the bldg.

(perc rates - 2912 / Report)

Only the <sup>sed</sup> whole <sup>for this wellhead</sup> ~~was~~ studied was studied.

TO: Conservation Commission

FROM: Alicia Mozian, Conservation Director

DATE: September 18, 2018

**RE: Update on Hiawatha Lane Project, Application #IWW-10619-18 and WPL-10659-18**

Several issues came up at the hearing on September 12<sup>th</sup> that we have been working to address since then. The main issue was the public's testimony about flooding concerns in the area and how this project may exacerbate the situation. In addition, the memo from the Westport Engineering Department identified several areas in which the plans did not comply with the Town's drainage standards. To that end, a meeting was held between Town staff and the applicants to discuss not only the items in the memo but also several of the issues raised by the neighbors. Staff also met with our Consultant, GHD, to discuss these issues. They will be submitting additional testimony. The issues raised include:

**1. Concern over soil conditions and their ability to accommodate these buildings.**

Testimony was submitted into the record by a member of the public questioning the site's suitability as it relates to soil compaction given that the area of the proposed buildings is comprised of fill material. Soil compaction is a question for the Building Department. However, depth to groundwater insofar as the depth relative to the elevation of the garage slabs, is a concern. If the floor of a garage is sitting in groundwater we need to be concerned with how that water will be handled during the construction process and in the long term, how will that groundwater be handled on a daily basis? Will it be pumped? What if the pump fails during a power outage? Are there footing drains? Where do the drains discharge? Do the galleries and or raingarden/basins have the capacity to handle that amount of water?

Compounding such concerns is P&Z Regulation #32-8.3.10 in the standards for Excavation and Fill which states:

"Activities may not be undertaken to circumvent the protection of property sought by the provisions of this regulation so as to change the groundwater table, to excavate a basement or cellar built below the groundwater table thereby increasing surface runoff by pumping water to the surface or to alter natural drainage basins or flows. The Zoning Office or the Planning and Zoning Commission shall take appropriate enforcement action to prevent this from occurring."

Both the "Inland Wetland and Watercourse Regulations for Westport" (Section 6.5) and the "Waterway Protection Line Ordinance" (Sections 30-92, 93 and 94) allows us to consider the flood carrying capacity, the activities impact on natural drainage patterns of a waterway and the function that wetlands and watercourses provide for discharge and runoff.

In reviewing the testpit data on Sheet 2.1 of the proposed plans we find the depth to the restrictive layer which we are determining is the depth to groundwater. Comparing that elevation to the elevation of the garage floors we find that in Buildings C, D and E the garage floors are sitting in an estimated 9 inches, 2 ft. or 1.85 ft. of water, respectively. We acknowledge that in some cases we had to interpolate



depth to groundwater from the testpit locations since no testpits were dug beneath the proposed building locations themselves but only where the drainage galleries or infiltration basins are proposed.

This issue was discussed with the applicant at our September 14<sup>th</sup> in-office meeting. They were reminded that they cannot pump water up onto the surface as prohibited to the Zoning Regulation. Therefore, they were going to explore expanding the size of the drainage galleries. If that option is chosen, revised drainage calculations will be needed and approved by our Engineering Department.

Another option is for the applicant to explore raising the elevation of the garage floor slabs to raise them out of the groundwater.

## **2. Protection of the Culvert beneath Hiawatha Lane and replacement of the headwall.**

The Applicant has stated that it is not their intention to repair or replace the headwall or culvert that carries Indian Brook beneath Hiawatha Lane as they believe it is Town-owned and the responsibility of the Town. The Commission expressed concern that with the estimated 1,500 to 2,000 trips using a triaxle vehicle to carry out the over 27,000 cubic yards of soil for the underground parking garages and drainage structures, that the culvert should be protected. Collapse of the culvert would cause flooding of the neighbors property and be an obstruction to the waterway. The applicant was asked to investigate how the culvert could be protected during construction.

This issue was discussed with the applicant at the September 14<sup>th</sup> meeting and the applicant said several options for protection would be explored and presented to the Commission though they asked that the final determination as to which methodology be made as a condition of the permit should it be approved.

Conservation Department staff further investigated the ownership of the culvert and headwall and found that, according to the Public Works Department's records, the culvert and headwall are on the land owned by the applicant which includes the private portion of Hiawatha Lane purchased by the applicant. Therefore, should the culvert be damaged during construction it will be the applicant's responsibility to fix it which they would be required to do so under the IWW Regulations.

## **3. Clogged Culverts Under the Railroad Tracks**

Testimony from concerned neighbors focused on the project's potential to increase flooding on the street and on their property. One issue raised is the clogged culverts beneath the railroad tracks. If more water will be discharged into these locations, the clogged culverts act as a pinch point, the water cannot property drain and more flooding will occur.

Staff has researched the culvert locations in the area and has found two: one conveys Indian Brook, the other is located on the Norwalk/Westport border but is actually located in Norwalk. Both are controlled by the CT Department of Transportation and run beneath the railroad. See Section 6, Figure 4 of the May 14, 2018 application submission and the maps accompanying soil scientist Thomas Pietras' June 12, 2016 report.

The applicant has alleged that they have designed the project to contain all the runoff from the increase in impervious surface area via the use of drainage galleries, infiltration basins and raingardens. Both our Engineering Department and our Consultant has verified this. Therefore, it is presumed that whether the culverts are clogged or not is irrelevant. Still, relating back to Item 1, if groundwater in the garages is not handled properly and or not factored into the design of the drainage system, then more water would be leaving the system and exaggerating the flooding condition. Therefore, this issue still needs further review.

#### **4. Direction of Flow**

Testimony at the September 12<sup>th</sup> hearing offered differing opinions as to the direction of flow of surface waters. Some felt it was coming from Norwalk, some felt it was coming from Westport. The answer is a little of both. Yes, there is flow from Norwalk into the west side of the property and eventually the wetland system behind Buildings A and B (a/k/a Parcel 4). There is also flow coming from the intermittent watercourse on the east side of 39 Hiawatha Lane which then discharges into the same wetland system. The majority of this wetland system drains into the same culvert on the Norwalk/Westport border located in Norwalk.

A second watercourse flows in an easterly direction and discharges into the southwestern portion of the larger wetland and approximately one mile from the railroad and discharges into a tidal cove which is situated adjacent to Duck Pond Rd.

#### **5. Listing of Indian Brook on the State's List of Impaired Waterways**

A representative of "Saving Old Saugatuck" submitted two documents into the record entitled: "Southwest Shoreline Watershed Summary- 2012" and "Factsheet: Town of Westport Water Quality and Stormwater Summary." According to the 2012 "Shoreline Watershed Summary," two segments of Indian Brook are listed on the State's list of impaired waterways because water quality testing indicates it does not meet water quality standards set by the Clean Water Act for recreation due to elevated bacteria levels. (E-coli is the indicator bacteria.) The report states that "As there are no designated beaches in these segments of the Indian River, the specific recreation impairments are for non-designated swimming and other water contact related activities."

One segment of the Brook is located between Rt. 1 and Strawberry Hill Ave in Norwalk and crosses the town line into Westport. The second segment of the Brook is from Interstate 95 near Hiawatha Lane, crossing the railroad track and then emptying into the Saugatuck River at Burritt's Cove. Portions of Segment 2 flow through concrete culverts and underground pipes. The test site locations were the confluence of Indian Brook with the Saugatuck estuary (Segment 1) and Hogan Trail which is a street in Westport located north of I-95.

The report lists several possible sources of bacteria including leaks in the existing sewer main, insufficient septic systems, illicit discharges, wildlife and domestic animals, agricultural activities and lack of vegetated riparian buffer zones.

The "Fact Sheet" document submitted was compiled by the CT DEEP to each town that participates in the Small Municipal Separate Storm Sewer System (MS4) General Permit. It lists the percentage of impervious area in Westport, results of the water quality sampling done to meet the EPAs testing standards for E.coli, Total Suspended Solids, Total Nitrogen, Total Phosphorous and Turbidity. The purpose of the document is to help towns measure and manage their stormwater runoff discharges.

**6. Possibility of the Presence of Threatened or Endangered Species**

Testimony also entered by the representative from "Saving Old Saugatuck" was entered into the record questioning whether the site had been investigated for the presence of Threatened or Endangered Species. The applicant conducted an inquiry of the CT DEEP Natural Diversity Data Base Map for Westport in September 2015 and found no listed species on the property.

## Mozian, Alicia

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**From:** Mozian, Alicia  
**Sent:** Wednesday, October 10, 2018 3:05 PM  
**To:** 'Hollister, Timothy'  
**Subject:** RE: Summit Hiawatha Lane

Hi Tim,

FYI, as of now, I am anticipating closing the hearing on October 17<sup>th</sup>. I hope that after the meeting on the 17<sup>th</sup> we can start the work session so I can get some direction as to what the commission is thinking. However, we do have until November 1<sup>st</sup> to make a decision pursuant to the WPLO. To that end, we are planning on having a Special Meeting to vote. That is scheduled for Friday, October 26<sup>th</sup> at 9:00 a.m. though I have not yet made the agenda.

As for remaining issues, I am still awaiting something from Engineering and from our consultant. However, in reaction to the Commission's questions/concerns that I heard at the last meeting, I was suggesting Mark recap how the design will be handling the water from the project so that it does not exacerbate the flooding conditions in the area. This is related to our Discharge and Runoff section in the IWW regs and also a consideration under the WPLO.

Alicia

**From:** Hollister, Timothy <THollister@goodwin.com>  
**Sent:** Monday, October 08, 2018 2:07 PM  
**To:** Mozian, Alicia <AMOZIAN@westportct.gov>  
**Subject:** Summit Hiawatha Lane

Hi Alicia, I know you are not in the office today (Monday) but I thought I would check in. First, we want to make sure that all technical issues are resolved. My understanding is that Mark Shogren provided detailed responses and revised plans to you, Amrik, and Stuart Manley last week. Hoping to avoid any last minute surprises.

We did yet another notice mailing and my assistant sent you the letter and certificate of mailing by PDF.

One other thing that caught my eye: you asked Mark Shogren about excavating in an area where groundwater may be present, and my understanding is that he responded to you. However, that particular issue is not a wetlands issues as the area where the main building will be built is well outside both wetlands and the upland review area. If I am missing something about this issue, please let me know.

Also, though I will go to my grave not understanding the WPLO ordinance and its procedures and timing, I think you said on 9/26 that the Conservation Commission needs to make a decision by Nov 1? If you could clarify the timing that would be appreciated; we are of course hoping that Stuart Manley's on-the-record agreement with Bill Kenny that there are no adverse impacts on a wetland or watercourse from the site plan will lead to an approval on 10/17.

Thanks



To: Conservation Commission

FROM: Alicia Mozian, Conservation Director

DATE: October 12, 2018

RE: Application Update

1. **Hiawatha Lane:** The applicant submitted revised plans. Our consultant reviewed them and submitted comments. We are still awaiting comments from the Engineering Department.

I have also reached out to the Town Attorney's office asking for a more detailed response to the question posed by the public about the sequence of the Conservation Commission reviewing the application while the issue of sewer connection has not yet been resolved. I am awaiting a response.

2. **16 Fresenius Rd.:**

- A list of the questions/requests made at the previous hearing is in your packet.
- The applicant did stake the center-line of the two proposed driveways and house corners.
- The Flood and Erosion Control Board did approve the project at its October 3<sup>rd</sup> meeting though we do not have the minutes or conditions of approval yet.
- The report from the applicant's wetland scientist is expected on Monday and will be transmitted to you electronically as soon as it is received.
- No other information from the applicant has been submitted as of this writing.
- Two e-mails were forwarded to you by property owners:
  - a. Thomas Schmidt 10/9/18 with attached video
  - b. Melissa O'Gorman 10/9/18 with attached photos

The Commission still needs to decide if it would like to retain the services of an outside consultant, specifically a wetland scientist to help assess impact, if any, to the wetlands on and directly off-site.

I have also reached out to the Town Attorney's office asking for clarification of what conditions the Commission can impose on a subdivision application.



Discussed 10/17/18

Saugatuck Ave from Parking 8/15/17





Saugatuck Ave Train Parking 8/15/2017





**WESTPORT, CONNECTICUT  
CONSERVATION COMMISSION**

TOWN HALL - 110 MYRTLE AVENUE  
WESTPORT, CONNECTICUT 06880  
(203) 341-1170 • FAX (203) 341-1088

October 26, 2018

Summit Saugatuck, LLC  
55 Station Street  
Southport, CT 06890

**Re: 28, 36, 38, 39, 41, 42, 43, 44, 45, 47, Parcel A05, Lot 4, and Parcel A05, Lot 5 Hiawatha Lane,  
Westport, CT**

Dear Sir:

This letter serves to confirm that at its October 26, 2018 work session, the Conservation Commission approved application #IWW, 10619-18 and #WPL-10659-18 for the demolition of 10 single family residences and the construction of a 187 multi-family unit CGS 8-30 g housing complex, surface and blow grade parking, a playground, grading and drainage appurtenances on the above-reference properties. . A copy of the Commission's findings, resolution and conditions of approval is enclosed for your use.

If you have any questions please do not hesitate to call our office.

Sincerely,

A handwritten signature in cursive script that reads "Anna Rycenga". To the right of the signature, the letters "AMM" are handwritten in a different style.

Anna Rycenga

Acting Chair, Westport Conservation Commission

cc: Timothy Hollister, Esq.  
Anne >M Mantia  
Estate of Crystal Christensen  
Hannelore Walsh  
Frank P. Bottone  
David H. Ogilvy

CERTIFIED MAIL

hearings/approval letter/hiawatha



## FINDINGS

Application #IWW-10619-18

#WPL-10659-18

Lot A5/4, Lot A5/5, 28,36,38,39,41,42,43,44,45,47 Hiawatha Lane

Public Hearings: July 18, 2018, September 12, 2018, September 25, 2018, October 17, 2018

Receipt Date: IWW Application: May 16, 2018

Application Classification: Plenary

### Application Request:

Applicant is proposing to redevelop several existing residential lots to build a 187 unit 8-30 g affordable housing project. The existing site includes 10 single family homes and two vacant lots. These homes will be demolished. Two lots to the north will be combined to form a new .75 acre parcel. The remaining eight house lots and two vacant lots to the south will be combined to form an 8.07 acre parcel. The north lot will have a three story, multi-family residential building with below ground and at-grade parking. The south lot will have three, three story multi-family buildings and one, four-story building with a connecting underground parking garage and at-grade parking. Related appurtenances include a playground and recreation area, a courtyard, walkways, paved drives and a stormwater management system.

The project is proposed to be served by public water and connection to a new sanitary sewer line with sanitary manholes and other related improvements along approximately 1,600 linear feet of Hiawatha Lane and Davenport Avenue within the road right-of-way.

The on-site impervious coverage will increase from 1.1 acres to 3.9 acres.

### Regulated Activities:

- a. Southern Wetland System: There are four buildings proposed in the southwest portion of the site (Buildings A, B, C and D.) Of the four, two are located adjacent to a large wetland system that measures approximately 2.89 acres in size, (Buildings A and B.) All four buildings would be located outside the 75 ft. upland review area and the at-grade parking and driveway shoulders would be located outside the 30 ft. upland review area as well. No work is proposed within the wetland. The only work proposed is within the 20 ft. upland review area and is referenced by the applicant as an "Ecological Enhancement Zone" where invasive shrubs, vines and other vegetation would be removed and or controlled using herbicide applications. New, native trees, shrubs and ground cover planting would be installed. The wetland itself would be placed within the Conservation Easement Area which would be permanently demarcated with wood posts positioned 50 ft. on-center along the wetland boundary.
- b. Northern Wetland System: There is another building (Building E) with both underground and at-grade parking proposed in the northern portion of the property. All are located more than 75 ft from on-site wetlands.
- c. Eastern Wetland/Brook System: The regulated area in this portion of the project is restricted to that which is directly next to Indian Brook and is located in a confined

channel which mimics the top of the stream's embankment. The proposed regulated activity in this area is the Sewer Line Connection. The sewer line connection is proposed to cross Indian Brook. Work is proposed to take place in the street with the new sewer line to be installed beneath the brook. The work is located within the 20 ft upland review area and the WPLO area of Indian Brook.

**Plans Reviewed:**

"The Village at Saugatuck, Town of Westport," prepared for Summit Saugatuck, LLC

1. Plans prepared by Divney, Tung, Schwalbe, LLP
  - a. Key Plan, SP-0.1, Scale 1" = 50', dated May 7, 2018, revised to 7/27/18
  - b. Layout Plan (North), Sheet SP-1.1, Scale 1" = 30', dated May 7, 2018 and June 29, 2018 revised to 9/28/18
  - c. Layout Plan (South), Sheet SP-1.2, Scale 1" = 30', dated May 7, 2018 and June 29, 2018 revised to 9/28/18
  - d. Grading and Utility Plan (North), Sheet SP-2.1, Scale 1" = 30', dated May 7, 2018 and June 29, 2018 revised to 9/28/18
  - e. Grading and Utility Plan (South), Sheet SP-2.2, Scale 1" = 30', dated May 7, 2018 and June 29, 2018, revised to 9/28/18
  - f. Landscape Plan (North), Sheet SP-3.1, Scale 1" = 30', dated May 7, 2018 and June 29, 2018 revised to 7/27/18
  - g. Landscape Plan (South), Sheet SP-3.2, Scale 1" = 30', dated May 7, 2018 and June 29, 2018, revised to 7/27/18
  - h. Erosion Control Plan, Sheet SP-4.1, Scale 1" = 50', dated May 7, 2018 and June 29, 2018, revised to 7/27/18
  - i. Erosion Control Phasing Plan, Sheet SP-4.2, Scale 1" = 80', May 7, 2018 and June 29, 2018, revised to 7/27/18
  - j. Erosion Control Details, Sheet SP-4.3, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 7/27/18
  - k. Site Details, Sheet SP-5.1, Scale As Shown, dated May 7, 2018, revised to 7/27/18
  - l. Site Details, Sheet SP-5.2, Scale As Shown, dated May 7, 2018, revised to 7/27/18
  - m. Site Details, Sheet SP-5.3, Scale As Shown, dated May 7, 2018, revised to 7/27/18
  - n. Site Details, Sheet SP-5.4, Scale As Shown, dated May 7, 2018, revised to 9/28/18
  - o. Site Details, Sheet SP-5.5, Scale As Shown, dated 6/29/18 revised to 7/27/18
  - p. "Operations and Maintenance Plan", Sheet OM-1, dated 8/17/18, revised to 7/27/18
  - q. "Proposed Stormwater Management Measures, Sheet SP-6.0, Scale 1"=50' dated 6/29/18
  - r. "Proposed Conservation Easement", Sheet CE-1, Scale 1"=30' dated 5/7/18
  - s. "Wetland (Upland) Review Area Diagram, Sheet WE-1.2 Scale 1"=30' dated 6/29/18
  - t. "Wetland (Upland) Review Area Diagram, Sheet WE-1.3 Scale 1"=30' dated 6/29/18
  - u. "Conservation Easement & Ecological Enhancement Zone Management Site Plan, The Village at Saugatuck" Hiawatha Lane Westport, CT prepared by William Kenny Associates dated September 25, 2018 and accompanying document entitled: "The Village at Saugatuck Hiawatha Lane Westport, Connecticut "Conservation Easement & Ecological Enhancement Zone Management Plan" prepared by William Kenny Associates, LLC dated September 25, 2018.
2. Plans prepared by Redniss & Mead
  - a. Site Development Plan Depicting Hiawatha Lane Sanitary, SE-1, Scale 1' = 30', dated May 7, 2018
  - b. Details Depicting Hiawatha Lane Sanitary, SE-2, Scale NTS, dated May 7, 2018

- c. Pump Station Details Depicting Hiawatha Lane Sanitary, SE-3, Scale NTS, dated May 7, 2018
  - d. Cross Sections Depicting Hiawatha Lane Sanitary, SE-4, Scale As Noted, dated May 7, 2018
3. Plans prepared by Lewis Associates Land Surveying and Civil Engineering
- a. Existing Conditions Plan Topographic Survey of Properties Located on Hiawatha Lane, Westport, Connecticut, Sheet 1 of 3, Dated March 17, 2016 and last revised to January 3, 2018.
  - b. Existing Conditions Plan Topographic Survey of Properties Located on Hiawatha Lane, Westport, Connecticut, Sheet 2 of 3, Dated March 17, 2016 and last revised to January 3, 2018
  - c. Existing Conditions Plan Topographic Survey of Properties Located on Hiawatha Lane, Westport, Connecticut, Sheet 3 of 3, Dated March 17, 2016 and last revised to January 3, 2018

**Permits/Applications filed:**

- 1. February 21, 2018, Conservation Commission approved Application #IWW/M-10540-18 for Amendment of Wetland Boundary Map A5 and B5.
- 2. Application #IWW/WPL-10619-18 of Summit Saugatuck for 187 Unit 8-30g affordable housing project was submitted May 14, 2018. The WPLO portion of the application was withdrawn July 23, 2018 in order to allow more time to review the application and was resubmitted on August 8, 2018. The contents of the previous WPLO application was incorporated into the current application #WPL-10659-18.

**WPLO:** There are two watercourses on the property. Indian Brook is located in the vicinity of the sewer crossing in the eastern portion of the project. An unnamed tributary to Indian Brook flows in the southern portion of the lot. The WPLO boundary is established 15 ft. from the wetland boundary associated with both the brook and the tributary.

The only regulated activity pursuant to the WPLO is the sewer connection taking place within Hiawatha Lane. The proposed sewer line would be placed beneath the brook which exists within a culvert beneath the street.

**IWW Defined Resource (wetland or watercourse)**

Wetlands and Watercourses occur on the subject property to the south and east.

The wetlands were flagged and the boundary was adopted by the Conservation Commission at its February 21, 2018 hearing of Application #IWW/M-10540-18. The boundary was initially flagged by Soil Scientist, Thomas Pietras, then confirmed by William Kenny. The Commission also retained the services of soil scientist, Eric Davison, who verified the flaggings by Mr. Pietras and Mr. Kenny.

**Property Description:** The ten existing, single family properties range in size from 0.35 to 0.81 acres, while the two undeveloped parcels are 0.16 and 2.85 acres in size. Most of the lands surrounding the single family houses are maintained in grassed lawns with scattered trees and shrubs. The southern portions of House #38, 32 & 44 plus a large portion of Parcel 4 are wooded. A State of CT-owned property is situated to the north of House # 38, 32 & 44 and to the west of House #36. Formerly, this State property contained buildings and asphalt parking associated with the I-95 toll booths. The toll booths were taken out in the late 1980's. These state lands are presently vacant and covered with a mix of grass fields with grades falling generally to the south. Elevations range from 32 feet at the northeastern corner of 28 Hiawatha Lane to just below 10 feet in the broad flatlands on Parcel 4.

In addition:

- a. The property is serviced by public water and on-site septic systems for the existing residences. A sewer line extension is proposed for the new proposed project.
- b. The property is not located within the Aquifer Protection Zone nor a groundwater recharge area.
- c. Property is outside the Coastal Area Management zone.
- d. The Town of Westport Wetlands Inventory prepared by Flaherty, Giavara Associates describes this system as a streamside floodplain with a wooded swamp and watercourse. A portion of the perimeter of this wetland system does contain tidal marsh vegetation. The perimeter of the wetland is developed residentially. There is evidence of water ponds temporarily within the wetland system.
- e. The WPLO boundary is 15' from the wetland boundary. The outlet of this wetland system is Indian Brook.
- f. The 100 year floodplain as designated by FEMA is set at elevation 10 ft. on this property. No work is proposed within this area. This floodplain is located within the southern wetland system.
- g. Landscape position is a backslope. Land surface shape is linear/linear.

**Wetlands Description:** Wetland soils are present on the southern portions of House #'s 39, 41 and 43 plus a large portion of Parcel 4.

A soil report summary was prepared by Tom Pietras on March 11, 2016 based on his inspection of the property on March 8, 2016. He describes the following wetland soils occurring on the property:

**Raypol silt loam (12):** The Raypol silt loam is a deep, poorly drained, friable loamy textured soil that developed over sandy and gravelly, glacial outwash. A water table is typically present within a foot of the surface from late fall through mid-spring.

**Scarboro muck (15):** this soil is a deep, very poorly drained soil with a thin (less than 15 inches) mucky surface that is underlain by sandy and gravelly, glacial outwash. This soil is subject to shallow (0 to 6 inches) seasonal ponding. The seasonal water table typically remains within six inches of the surface. On March 8, 2016, much of the Scarboro soil map unit identified on Parcel 4 contained shallow inundation that in places exceeded a foot deep. The wetlands on Parcel 4 may contain areas of deeper muck.

An intermittent watercourse discharges into the wetlands from a culvert which is located on the eastern side of 39 Hiawatha Lane. The watercourse flows in a southwesterly to westerly direction through the wetlands which are located on the southern portions of 39, 41 and 43 Hiawatha Lane and eventually into the broad wetlands on Parcel 4. A second intermittent watercourse channel is located in the far southern portion of 39 Hiawatha Lane and intersects with the first intermittent watercourse. The second watercourse extends onto property at 37 Hiawatha Lane where it connects with a larger brook. The Town of Westport GIS map shows a small pond, or inundated area, in the southern portion of 39 Hiawatha Lane within the delineated wetlands. There is evidence of a former, very shallow pond which has been silted-in. The intermittent watercourse which discharges from the culvert at 39 Hiawatha Lane passes through the former pond which presently supports young forested swamp vegetation.

The wetland area in the vicinity of the sewer crossing was flagged by soil scientist, William Kenny. He determined the soils in that area to be comprised of Udorthents which are soils that have been filled or excavated to a depth greater than 2 ft. and are well drained to somewhat poorly drained.

According to the State of Connecticut Surficial Materials Map, the project area contains glacial meltwater deposits that were mapped as containing sand and gravel. Glacial meltwater deposits consist of layers of well-sorted to poorly sorted gravel, sand, silt and clay laid down by flowing meltwater in glacial streams and lakes which occupied the valleys and lowlands of Connecticut during the retreat of the last glacial ice sheet. The sand and gravel map unit is composed of mixtures of gravel and sand within individual layers and as alternating layers. Sand and gravel layers generally range from 25 to 50 percent particles and 50 to 75 percent sand particles.

#### Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations

##### 6.1 GENERAL STANDARDS

- a) disturbance and pollution are minimized;
- b) minimize height, width, length of structures are limited to the minimum; dimension to accomplish the intended function;
- c) loss of fish, other beneficial organisms, wildlife and vegetation are prevented;
- d) potable fresh water supplies are protected from dangers of drought, overdraft, pollution, misuse and mismanagement;
- e) maintain conservation, economic, recreational and aesthetic qualities;
- f) consider historical sites

**Findings:** The proposed multi-family units are outside the 75 ft upland review area. The proposed surface parking lot is outside the 30 ft. upland review area.

In a report dated May 10, 2018 by William Kenny of William Kenny Associates, to the applicant, he summarizes that the proposed residential redevelopment is not expected to have adverse impacts to wetlands or watercourses on or off the site. The proposed project has been designed to avoid direct and indirect adverse impact to wetlands and watercourses. Direct adverse impact will be avoided as no wetlands or watercourse areas will be eliminated or degraded.

Mr. Kenny writes that indirect adverse impacts will be avoided by managing the quality and quantity of stormwater runoff before it enters wetlands and watercourse on and off the property. The applicant proposes to enhance wetlands through the removal of construction debris and other residential bulky waste, the control of invasive vegetation and the installation of native vegetation. In addition, the proposed ornamental landscape will be managed in accordance with Northeast Organic Farmers Association standards.

The Conservation Commission has retained the services of GHD to aid in its review of the application and what, if any, impact there will be to wetlands and watercourses as defined by the "Inland Wetland and Watercourse Regulations of the Town of Westport" and the Town's "Waterway Protection Line

Ordinance.” GHD’s analysis of proposed impacts is summarized in its memo to the Commission dated July 11, 2018.

Based on the documents provided to GHD, it found that:

- The applicant is not proposing any direct impact to wetlands or waterways on or adjoining the site;
- The applicant has identified that potential secondary impact to wetlands and watercourse related to construction (short-term) and increased impervious surfaces and stormwater run-off (long-term) could occur, if unmitigated.
- The applicant has provided an analysis and discussion of proposed mitigation measures to address potential short-term and long-term adverse impacts on the wetland and watercourse as a result of the project. The proposed mitigation measures include an erosion and sedimentation control plan to address potential short-term impacts due to construction activities and a comprehensive stormwater management plan to address potential long-term adverse impacts to the wetlands and watercourse.
- In all, GHD listed 22 action items that were to be addressed that would better protect the wetlands and watercourses.
- In response, a document entitled, “Response Document to July 11, 2018 memo of GHD” dated July 30, 2018 was prepared by Divney, Tung, Schwalbe. A second memo was submitted by Summit Saugatuck, LLC dated August 24, 2018 to the Westport Conservation Commission entitled “Response to July 11, 2018 Peer Review Memo of GHD” in which each of the GHD comments were addressed.
- A response document dated September 6, 2018 from GHD noted that the responses made to their initial July comments adequately addressed their concerns. In some instances, the plans were further amended with revisions submitted on October 1<sup>st</sup> noting a September 28, 2018 revision date.
- The plans were also revised to reflect comments from the Engineering Department’s September 7, 2018 memo to Conservation Director, Alicia Mozian. The September 28, 2018 plans were further reviewed by the Engineering Department, revisions made and a final memo from the Engineering Department, dated October 15, 2018 concludes that the “office is satisfied with the revisions made to the project. Per this review, the application is substantially complete and requires no further resubmission. While the granting of this approval is at the discretion of the Commission, we find no issues in my review that would preclude such action.”

## 6.2 WATER QUALITY

- a) flushing rates, freshwater sources, existing basin characteristics and channel contours will not be adversely altered;
- b) water stagnation will neither be contributed nor caused;
- c) water pollution will not affect fauna, flora, physical or chemical nature of a regulated area, or the propagation and habitats of fish and wildlife, will not result;
- d) pollution of groundwater or a significant aquifer will not result (*groundwater recharge area or Aquifer Protection Overlay Zone*);
- e) all applicable state and local health codes shall be met;
- f) water quality will be maintained or improved in accordance with the standards set by federal, state, and local authority including section 25-54(e) of the Connecticut General Statutes
- g) prevents pollution of surface water



**Findings:** The proposed development will increase the on-site impervious surface coverage by approximately 2.8 acres. Stormwater runoff will be installed and maintained to meet the Town's drainage design standards for water quality which includes treating the first inch of runoff from added impervious surfaces. The treatment train proposed will drain stormwater flowing from impervious surfaces into hooded deep sump catch basins, which will help remove oil and grease and sediment. The parking garage(s) will have an oil and grease separator(s) that will drain to the Town's sewer system. Runoff will then drain into recharge chambers that will infiltrate the stormwater into the surrounding soils or water quality basin which will further remove pollutants from runoff. Runoff from the remaining impervious surfaces will flow to the stormwater basins and raingardens and treated via infiltration in the surrounding soils. Rainwater that lands on the proposed parking garage's 11,000 sq.ft. green roof will be treated and detained by passing through the green roof vegetated medium into a roof drain system. Excess stormwater from the green roof will flow to either the subsurface recharge chamber to the north or the stormwater basin to the south for infiltration and further treatment. The Commission finds that the maintenance of the green roof is an integral part of the treatment train and as such provisions for its upkeep must be added to the overall Operations and Maintenance Plan for the property.

In addition, the applicant will be cleaning the existing Indian Brook culvert and existing wetland area of debris. The Commission further finds that every attempt to secure permission from the State of Connecticut to allow cleaning of the culvert under the railroad will further improve the water quality of the brook leading into the Saugatuck River.

Moreover, the 2.89 acre Conservation Easement Area which encompasses the vast majority of the on-site wetland will be left undisturbed. A 20 ft.- 50 ft. wide vegetated buffer will be enhanced with native plantings that will act as additional on-site filtering of any overland flow. The Commission finds that the proposed "Ecological Enhancement Zone" once established, should be included in the Conservation Easement Area.

Snow stockpile areas have been designated on the plans to ensure snow is not dumped into the Conservation Easement area. When deicing is required, Calcium Magnesium Acetate or other non-sodium based procures will be used. This requirement will be added to the Operations and Maintenance Plan for the property.

The proposed development is slated to be served by city water and sewer, though the Town's approval to connect to the sewer has not yet been granted. The Commission finds that failure to secure the sewer approval would render this approval null and void since the design is predicated on receiving this approval.

The buildings would be heated by natural gas. Any existing underground oil tanks now servicing the existing homes would be removed. The applicant purports that above-ground oil tanks from six of the 10 existing homes have already been removed. In addition, since the past use of the property has been historically residential, the applicant believes a Phase I site assessment is not warranted.

However, in the May 14, 2018 letter to Patricia Shea, Chair of the Conservation Commission, Timothy Hollister, attorney for the applicant states that: "one parcel adjacent to the proposed redevelopment, a lot still owned by the Connecticut Department of Transportation, was used until the 1980's as a paved support area for I-95 toll booths." In his June 12, 2016 report to Summit Development, LLC, Soil Scientist, Thomas Pietras further defines this areas located to the north of houses 38, 32, 44 and to the

west of house 36. The Commission finds that since the parcels under review now are in such close proximity to the state owned land that once generated possible contaminants by its use as a toll booth location, at minimum, a Phase I study should be conducted by the applicant. However, the Commission has opted to make this a recommendation to the Planning and Zoning Commission as the concern relates more closely to its purview in reviewing the public health and safety aspect of the proposal.

### **6.3 EROSION AND SEDIMENT**

- a) temporary erosion control measures shall be utilized during construction and for the stabilization period following construction;
- b) permanent erosion control measures shall be utilized using nonstructural alternatives whenever possible and structural alternatives when avoidable;
- c) existing circulation patterns, water velocity, or exposure to storm and flood conditions shall not be adversely altered;
- d) formation of deposits harmful to aquatic life and or wetlands habitat will not occur;
- e) applicable state, federal and local guidelines shall be met.

**Findings:** The erosion and sediment controls are probably one of the most significant considerations of this particular design due to the amount of proposed cutting and the proximity to the wetland. The site measures 8.8 acres total, 8.1 acres in the southern most section of the property where Buildings A,B, C and D are located. Building E is located in the northern section on .75 acres. All buildings will be served by both at-grade parking spaces and underground parking garages.

The property slopes from north to south with some steep slopes located to the north. The applicant has stated that there will be net cutting of the property with an estimated 25,725 cubic yards of fill being removed from the site. For perspective, assuming a typical dump trucks has a capacity of 20 yards, that equates to 1,286 dump truck loads of fill being hauled off the property.

The applicant has testified that the total site disturbance is estimated at 5.8 +/-acres with only 5 acres of land being cleared at a time and that the sediment and erosion control plan, is meant to also serve as the construction phasing plan, Sheet SP-4.2. The Conservation Easement Area measures 2.9 acres. This, plus the area to be developed equals the total 8.8 acres. The State of Connecticut requires that if the site disturbance is greater than 5 acres, registration of the site with the CT DEEP is required. The applicant agrees that they do plan on registering their plan for stormwater and sediment and erosion control with the State.

The applicant is proposing the use of double-rows of silt fencing, sediment traps, stockpiles with silt fence placed at a minimum of 55 ft. from any wetlands, wheel wash areas, dewatering pits, coir logs, catch basin inserts, mud-tracking pads. In addition, the Erosion Control Plan, Sheet SP-4.1 states that a Site Monitor will be employed that will report to the Conservation Department on a weekly basis and after a rainfall event of .5 inches or greater. Reporting will take place during the initial clearing, excavation, foundation construction, installation of sedimentation controls and time of final site stabilization.

The sediment traps will be converted to stormwater infiltration basins at the end of construction.

Stockpile areas are located throughout the project, one being in the far southwest corner of the developed area adjacent to the wetland in the location of the proposed playground. These piles will be hydro-seeded. In addition, any areas not worked for more than seven days are to be hydro-seeded.

The Commission's consultant, GHD, reviewed the erosion and sedimentation control plan and determined that the plans are adequate and meet the goal of trapping particulates at the source by promptly stabilizing disturbed areas, avoiding concentration of runoff, avoiding contamination of existing storm drains and maintenance of controls on a weekly basis and after storm events.

#### **6.4 NATURAL HABITAT STANDARDS**

- a) critical habitats areas,
- b) the existing biological productivity of any Wetland and Watercourse shall be maintained or improved;
- c) breeding, nesting and or feeding habitats of wildlife will not be significantly altered;
- d) movements and lifestyles of fish and wildlife (plant and aquatic life) will not be significantly affected;
- e) periods of seasonal fish runs and bird migrations shall not be impeded;
- f) conservation or open space easements will be deeded whenever appropriate to protect these natural habitats.
- g) Planting plan included with application as mitigation for the proposed activities

**Findings:** The wetland areas on the site were evaluated for their ability to provide wildlife habitat by two soil and wetland scientists, Thomas Pietras and William Kenny. They describe the wetlands as being grouped into three areas: a forested swamp in the southeastern portion of the site primarily behind 39, 41 and 43 Hiawatha Lane, a shrub-sapling swamp/forested swamp complex in the southwestern portion primarily behind 43, 45 and 47 Hiawatha Lane, and Indian Brook and its fringe wetland.

In his June 12, 2016 report, Mr. Pietras states that on May 16, 2016 the inundated portion of the swamp area was investigated for amphibians and reptiles. A dip net was used to sample the waters and identify any species. No obligate vernal pool species were found. An American toad, green frog, several waterfowl and song bird species were sighted.

Mr. Pietras found that the forested swamp, intermittent watercourse, patches of upland forest and the dense woody understory and herbaceous layer provide food, cover and nesting sites for wildlife. However, the presence of a residential neighborhood to the north and the railroad to the south reduce the overall wildlife habitat value. Therefore, in general the forested swamp wetlands was determined to provide moderate wildlife habitat.

The shrub-sapling swamp and forested swamp are situated primarily within the vacant lot behind #43, 45 and 47 Hiawatha Lane. Mr. Pietras rated this area as moderate-high quality wildlife habitat for a range of species including reptile, amphibian, waterfowl, avian species and mammals.

Mr. Kenny re-investigated the site in April and September of 2017. In his May 10, 2018 report to the applicant, he also includes the evaluation of Indian Brook and its fringe wetlands. They were evaluated as having moderate wildlife habitat.

Mr. Kenny finds that the on-site wetlands will remain unchanged and or be slightly improved. The capacity of the wetlands and watercourses to provide wildlife habitat will be slightly improved as the wetland buffer areas will be cleaned of debris and vegetated with native plantings that will benefit wildlife using the wetlands.

A consultation of the CT DEEP Natural Diversity Data Base map for Westport was reviewed and no state or federal listed species and significant natural communities were identified in the forested swamp or in any portion of the of the project area.

Both of these wetland areas are proposed to be protected within a conservation easement area.

### **6.5 DISCHARGE AND RUNOFF**

- a) the potential for flood damage on adjacent or adjoining properties will not be increased;
- b) the velocity or volume of flood waters both into and out of Wetlands and Watercourses will not be adversely altered;
- c) the capacity of any wetland or watercourse to transmit or absorb flood waters will not be significantly reduced;
- d) flooding upstream or downstream of the location site will not be significantly increased;
- e) the activity is acceptable to the Flood & Erosion Control Board and or the Town Engineer of the municipality of Westport

**Findings:** Discharge and runoff and water quality are linked very closely in this design proposal. As no direct impact to the wetland is anticipated, the indirect impact may come from how effective the stormwater runoff is treated before it is discharged to the ground or the wetlands. The treatment train for handling stormwater runoff is reviewed more thoroughly in the "Water Quality" analysis above.

- Initially, the Commission's consultant, GHD, listed 22 action items that were to be addressed that would better protect the wetlands and watercourses. They concluded that, if done and found acceptable, would "appear to be adequate to mitigate potential long-term adverse impacts to the wetlands and waterways."
- In response, a document entitled, "Response Document to July 11, 2018 memo of GHD" dated July 30, 2018 was prepared by Divney, Tung, Schwalbe. Also, a memo was submitted by Summit Saugatuck, LLC dated August 24, 2018 to the Westport Conservation Commission entitled "Response to July 11, 2018 Peer Review Memo of GHD" in which each of the GHD comments were addressed.
- A response document dated September 6, 2018 from GHD noted that the responses made to their initial July comments adequately addressed their concerns. In some instances, the plans were further amended with revisions submitted on October 1<sup>st</sup> noting a September 28, 2018 revision date.
- The plans were also revised to reflect comments from the Engineering Department's September 7, 2018 memo to Conservation Director, Alicia Mozian. The September 28, 2018 plans were

further reviewed by the Engineering Department, revisions made and a final memo from the Engineering Department, dated October 15, 2018 concludes that the "office is satisfied with the revisions made to the project. Per this review, the application is substantially complete and requires no further resubmission. While the granting of this approval is at the discretion of the Commission, we find no issues in my review that would preclude such action."

- The Flood and Erosion Control Board reviewed and approved the application at its July 11, 2018 meeting.

However, as with any stormwater management plan, it is only as effective as it is maintained. This requires routine inspection and maintenance for the entire life of the project. The applicant has submitted an Operations and Maintenance Plan (Sheet OM-1) outlining how the stormwater features, including the green roof will be maintained over the life of the project. The Commission finds that this should be a stand-alone document with routine maintenance compliance recorded and available for inspection by Town representatives at any time.

The Commission further finds that in response to the testimony received by the neighbors about the flooding conditions in the area and due to the limited scope of the review by the Flood and Erosion Control Board at its July 18, 2018 review pursuant to the WPL Ordinance only, the Commission will be recommending to the Planning and Zoning Commission that, if and when the proposal is reviewed by them, they refer it again to the Flood and Erosion Control in order to provide the opportunity to consider the flooding conditions in the area on a watershed basis.

#### **6.6 RECREATIONAL AND PUBLIC USES**

- a) access to and use of public recreational and open space facilities, both existing and planned, will not be prevented;
- b) navigable channels and or small craft navigation will not be obstructed;
- c) open space, recreational or other easements will be deeded whenever appropriate to protect these existing or potential recreational or public uses;
- d) wetlands and watercourses held in public trust will not be adversely affected.

Discussion: A playground recreation area is proposed in the southwest corner of the project area behind Building B. This is located outside the WPLO area and approximately 60 ft. at minimum from the wetland boundary in that area. There is also an area between Buildings A and B described as "Hiawatha Green." This area sits above the below ground parking garage. The current application will not have a significant impact on recreational and public uses.

#### **WPLO Findings**

##### **Application #WPL-10659-18**

Section 30-93 of the Waterway Protection Line Ordinance states that an applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystems of the waterway, including but not limited

to, impact on ground and surface waters, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.

There are two watercourses on the property. Indian Brook is located in the vicinity of the sewer crossing in the eastern portion of the project. An unnamed tributary to Indian Brook flows in the southern portion of the lot. The WPLO boundary is established 15 ft. from the wetland boundary associated with both the brook and the tributary.

The only regulated activity pursuant to the WPLO is the sewer connection taking place within Hiawatha Lane. The proposed sewer line would be placed beneath the brook which exists within a culvert beneath the street.

- The Flood and Erosion Control Board approved the application on July 11, 2018.
- The Engineering Department gave a favorable review of the proposal after several plan changes and additions in its October 15, 2018 memo to Conservation Director, Alicia Mozian.
- The Commission's consultant found, that after several plan changes and additions, they found the project acceptable with certain conditions that would ensure the stormwater collection and treatment components of the plan would be maintained over the life of the development.
- The project development is located outside the 100 year floodplain.
- Soil and wetland scientists Thomas Pietras and William Kenny found no adverse impact to plant and aquatic life or habitat diversity since the entire wetland area would be protected in a Conservation Easement Area.
- No threatened or endangered species are found on the property.

The Conservation Commission finds that, with further conditions imposed to ensure design measures are implemented and maintained as proposed, the resources on the property as regulated by the Inland Wetland and Watercourse Regulations for the Town of Westport and the Waterway Protection Line Ordinance will not be adversely impacted by the proposed development.

**Conservation Commission**

**TOWN OF WESTPORT  
Conditions of Approval**

**Application #IWW-10619-18 and #WPL-10659-18**

**Street Address: 26, 36, 38,39, 41, 42, 43, 44, 45, 47 Hiawatha Lane  
and Parcel A5, Lot 4 and Parcel A5, Lot 5 Hiawatha Lane**

**Date of Resolution: October 26, 2018**

**Project Description:** Demolition of 10 single-family residences and construction of a 187-unit multi-family rental development housed within five separate buildings with underground and surface parking and driveways, playground area and associated grading and drainage.

**Owner of Record:** Summit Saugatuck, LLC; Anne M. Mantia; Estate of Crystal Christensen; Hannelore Walsh; Frank P. Bottone; and, David H. Ogilvy

**Applicant:** Summit Saugatuck, LLC

In accordance with Section 6 of the *Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport* and Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW-10619-18 and #WPL 10659-18 with the following conditions:

1. Completion of the regulated activity shall be within FIVE (5) years following the date of approval. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than TEN (10) years.
2. Permits are not transferable without the prior written consent of the Conservation Commission.
3. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
4. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
5. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
6. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
7. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
8. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.

9. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
10. All plants proposed in regulated areas must be non-invasive and native to North America.
11. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
12. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
13. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
14. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
15. Conformance to the Conditions of Approval of the Flood and Erosion Control Board hearing of July 11, 2018.

#### **SPECIAL CONDITIONS OF APPROVAL**

16. Conformance to the plans entitled:

"The Village at Saugatuck, Town of Westport," prepared for Summit Saugatuck, LLC

1. Plans prepared by Divney, Tung, Schwalbe, LLP
  - a. Key Plan, Sheet SP-0.1, Scale 1" = 60', dated May 7, 2018 and June 29, 2018 revised to 7/27/18
  - b. Layout Plan (North), Sheet SP-1.1, Scale 1" = 30', dated May 7, 2018 and June 29, 2018 revised to 9/28/18
  - c. Layout Plan (South), Sheet SP-1.2, Scale 1" = 30', dated May 7, 2018 and June 29, 2018, revised to 9/28/18
  - d. Grading and Utility Plan (North), Sheet SP-2.1, Scale 1" = 30', dated May 7, 2018 and June 29, 2018 revised to 9/28/18
  - e. Grading and Utility Plan (South), Sheet SP-2.2, Scale 1" = 30', dated May 7, 2018 and June 29, 2018, revised to 9/28/18
  - f. Landscape Plan (North), Sheet SP-3.1, Scale 1" = 30', dated May 7, 2018 and June 29, 2018, revised to 7/27/18
  - g. Landscape Plan (South), Sheet SP-3.2, Scale 1" = 30', dated May 7, 2018 and June 29, 2018, revised to 7/27/18
  - h. Erosion Control Plan, Sheet SP-4.1, Scale 1" = 50', dated May 7, 2018 and June 29, 2018, revised to 7/27/18
  - i. Erosion Control Phasing Plan, Sheet SP-4.2, Scale 1" = 80', dated 6/29/18, 2018, revised to 7/27/18
  - j. Erosion Control Details, Sheet SP-4.3, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 7/27/18
  - k. Site Details, Sheet SP-5.1, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 7/27/18
  - l. Site Details, Sheet SP-5.2, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 7/27/18
  - m. Site Details, Sheet SP-5.3, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 7/27/18
  - n. Site Details, Sheet SP-5.4, Scale As Shown, dated May 7, 2018 and June 29, 2018 revised to 9/28/18
  - o. Site Details, Sheet SP-5.5, Scale As Shown, dated 6/29/18 revised to 7/27/18
  - p. "Operations and Maintenance Plan", Sheet OM-1, dated 8/17/18
  - q. "Proposed Stormwater Management Measures", Sheet SP-6.0, Scale 1"=50' dated 6/29/18
  - r. "Proposed Conservation Easement", Sheet CE-1, Scale 1"=30' dated 5/7/18
  - s. "Wetland (Upland) Review Area Diagram", Sheet WE-1.2 Scale 1"=30' dated 6/29/18
  - t. "Wetland (Upland) Review Area Diagram", Sheet WE-1.3 Scale 1"=30' dated 6/29/18
  - u. "Conservation Easement & Ecological Enhancement Zone Management Site Plan, The Village at Saugatuck" Hiawatha Lane Westport, CT prepared by William Kenny Associates dated September 25, 2018 and accompanying document entitled: "The Village at Saugatuck Hiawatha



Lane Westport, Connecticut "Conservation Easement & Ecological Enhancement Zone Management Plan" prepared by William Kenny Associates, LLC dated September 25, 2018.

2. Plans prepared by Redniss & Mead
  - a. Site Development Plan Depicting Hiawatha Lane Sanitary, Sheet SE-1, Scale 1' = 30', dated May 7, 2018
  - b. Details Depicting Hiawatha Lane Sanitary, Sheet SE-2, Scale NTS, dated May 7, 2018
  - c. Pump Station Details Depicting Hiawatha Lane Sanitary, Sheet SE-3, Scale NTS, dated May 7, 2018
  - d. Cross Sections Depicting Hiawatha Lane Sanitary, Sheet SE-4, Scale As Noted, dated May 7, 2018
17. Submission of the Water Pollution Control Authority approval for connection of the development to the Town's sanitary sewer system prior to issuance of a Zoning Permit. Failure to secure this authorization will render this approval null and void.
18. The floor drain(s) in the proposed underground parking garages shall be connected to an oil and grit separator that shall be discharged to the Town sanitary sewer system. Detail design and maintenance plans for the oil and grit separator shall be submitted for review and approval by the Conservation Department and Engineering Department prior to issuance of a Zoning Permit.
19. Submission of the registration for the General Permit for discharge of stormwater and dewatering wastewaters from construction activities with the State of Connecticut Department of Energy and Environmental Protection for stormwater and erosion and sediment control management prior to issuance of a Zoning permit.
20. The Conservation Easement Area as shown on the map entitled, "Conservation Easement & Ecological Enhancement Zone Management Site Plan, The Village at Saugatuck" Hiawatha Lane Westport, CT prepared by William Kenny Associates dated September 25, 2018 shall be expanded to include the 20 ft. non-disturbance buffer.
21. Signage shall be installed at intervals of 50 ft. along the Conservation Easement boundary to indicate to the reader that the area is a designated protected area.
22. A separate mylar showing the Conservation Easement Area and accompanying document shall be recorded on the land records prior to issuance of a Conservation Certificate of Compliance. No cutting, clearing, grading or building is allowed within the Easement Area without prior authorization from the Conservation Commission.
23. Said Conservation Easement Area shall be managed in accordance with the document entitled, "The Village at Saugatuck Hiawatha Lane Westport, Connecticut "Conservation Easement & Ecological Enhancement Zone Management Plan" prepared by William Kenny Associates, LLC dated September 25, 2018. The management document shall be amended to include the placing and location of the signage as noted in Condition 21.
24. William Kenny, Wetland Scientist, Soil Scientist and Landscape Architect, or an expert of the same qualifying credentials, shall be retained by the applicant to ensure compliance with the management plan. Yearly progress reports shall be submitted by Mr. Kenny, or the selected expert, to the Conservation Department for three years commencing from the date the initial enhancement work is completed.
25. A detailed planting plan shall be submitted for the raingardens, the Ecological Enhancement Zone and native plantings within the Conservation Easement area for review and approval prior to issuance of a Zoning permit.

26. A separate maintenance plan for the green roof shall be submitted prior to issuance of a Conservation Certificate of Compliance.
27. A bond to cover the cost of sediment and erosion controls, raingarden plantings, native planting installation and invasive plant removal and three years of monitoring shall be submitted prior to issuance of a Zoning permit.
28. A final stormwater operations and maintenance plan shall be submitted for review and approval by the Conservation and Engineering Departments prior to issuance of a Conservation Certificate of Compliance.
29. A stand-alone copy of the stormwater operation and maintenance plan schedule, including maintenance of the green roof, shall be kept on the premises at all times. A logbook shall be maintained on the premises indicating the schedule for routine maintenance of the stormwater management and treatment components of the plan.
30. The structural integrity of the culvert at the intersection of Davenport Avenue and Hiawatha Lane conveying Indian Brook is unknown. The applicant has agreed to and shall inspect the culvert prior to the start of construction and conduct a load-bearing capacity analysis as to whether it can withstand the weight of heavy truck traffic hauling excess earth materials. A written report shall be submitted to the Conservation and Engineering Departments prior to issuance of a Zoning permit. Depending on the findings of the analysis, it shall be the responsibility of the applicant to secure any proper permits to repair or replace the culvert prior to the start of residential construction.
31. Once construction has commenced, the applicant shall conduct routine inspections of the culvert and make every effort to keep it clear of blockages and protect it during the construction process. Should it be damaged during the construction process, it shall be the responsibility of the applicant to secure all proper permits to repair or replace the culvert immediately upon discovery of damage.
32. Proof shall be submitted to the Conservation Department that the applicant and or its representative(s) has made a "good faith" serious effort to secure permission from Metro-North Railroad and the Connecticut Department of Transportation to clean the culvert under the railroad tracks. If permission is granted, the applicant shall submit a copy of the letter granting permission to clean the culvert prior to issuance of a Conservation Certificate of Compliance. Said culvert is the eastern-most culvert shown as Figure 4 in the letter dated June 12, 2106 by Pietras Environmental Group, LLC to Summit Development, LLC.
33. Written confirmation from the Engineering Department that the applicant has met the conditions of the July 11, 2018 Flood and Erosion Control Board's conditions of approval and the Town's Stormwater Management Drainage Design Standards shall be submitted prior to issuance of a Conservation Certificate of Compliance.
34. Once the houses at #28 and #36 Hiawatha Lane are demolished, an additional deep hole test shall be conducted for the drainage galleries for Building E. If the restrictive layer is higher than currently designed for, the entire infiltration system shall be adjusted accordingly so it is above the restricted layer. Said test pit results and any necessary adjustments shall be submitted for review and approval by the Conservation and Engineering Departments prior to start of construction for Building E.
35. A site monitor shall be retained for the duration of this project's construction and completion. Said selection shall be approved by the Conservation Department. Said monitor shall ensure compliance with the sediment and erosion control plans referenced herein with adjustments made in the field as needed. Said monitor shall conduct weekly inspections and after storm events greater than 1 inch with written reports submitted to the Conservation Department on a weekly basis.

36. Signage shall be erected and clearly delineated in a way that is easily identifiable under adverse winter conditions, throughout the premises indicating the approved snow storage locations to ensure proper placement .
37. The applicant shall identify the location of the final disposition of the excess excavated soil to be hauled off site in order to ensure the material will not impact a wetland at another location.
38. The applicant's Registered Professional Engineer will provide a signed and sealed certification to the Conservation Department that they have inspected each of the stormwater structures and they were installed consistent with the approved Stormwater Control Plan and functioning as designed per approved plans before issuance of a Conservation Certificate of Compliance.

**This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.**

**This approval may be revoked or suspended if the applicant exceeds the conditions or limitations of this approval, or has secured this application through inaccurate information.**

**Motion: Rycenga**

**Second: Corroon**

**Ayes: Rycenga, Corroon, Davis, Perlman, Bancroft**

**Nayes:           None           Abstentions:   None           Vote: 5:0:0**

The Commission hereby adopts a Sense of the Meeting Resolution to recommend to the Planning and Zoning Commission the following for its consideration when reviewing the application:

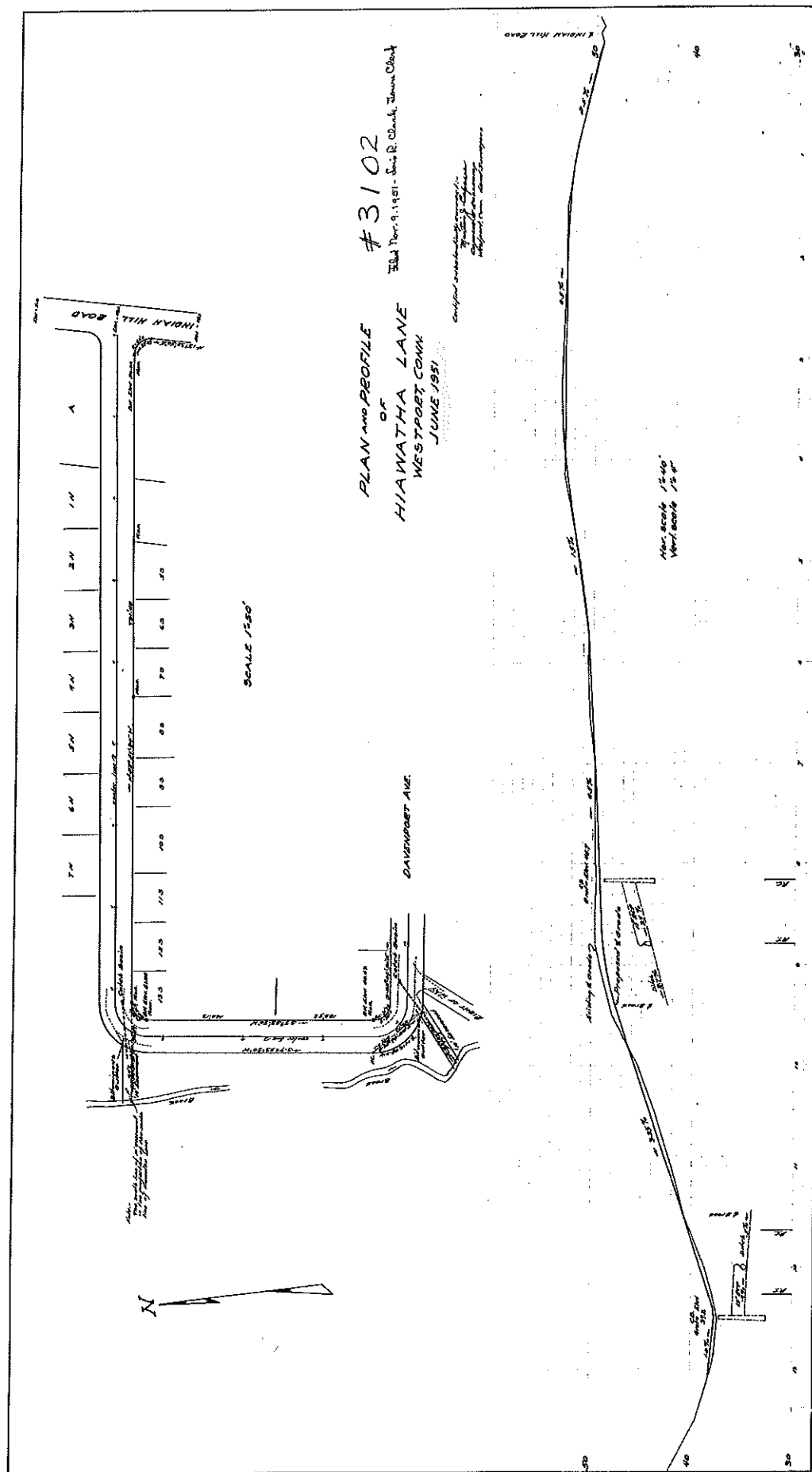
1. Submission of a Phase I, and if warranted, a Phase II Environmental Site Assessment from a Licensed Environmental Professional which verifies the property's history has been researched and preliminary soil investigation has been done to identify what, if any, contaminants may be on the site. Should said investigation reveal levels of concern, a site remediation plan should be submitted. The P&Z Commission may wish to retain its own LEP to review such documents.
2. The application should be resubmitted to the Flood and Erosion Control Board for its overall consideration of the proposed development's impact on the flooding and drainage concerns of the neighborhood. The F&ECB at its July 11, 2018 meeting only reviewed the proposal as it related to the work proposed within the bounds of the Waterway Protection Line Ordinance. This work is confined to the Indian Brook culvert crossing for utility installation.
3. The Department of Public Works and Flood and Erosion Control Board should conduct an analysis of the water carrying capacity of the culvert carrying Indian Brook.

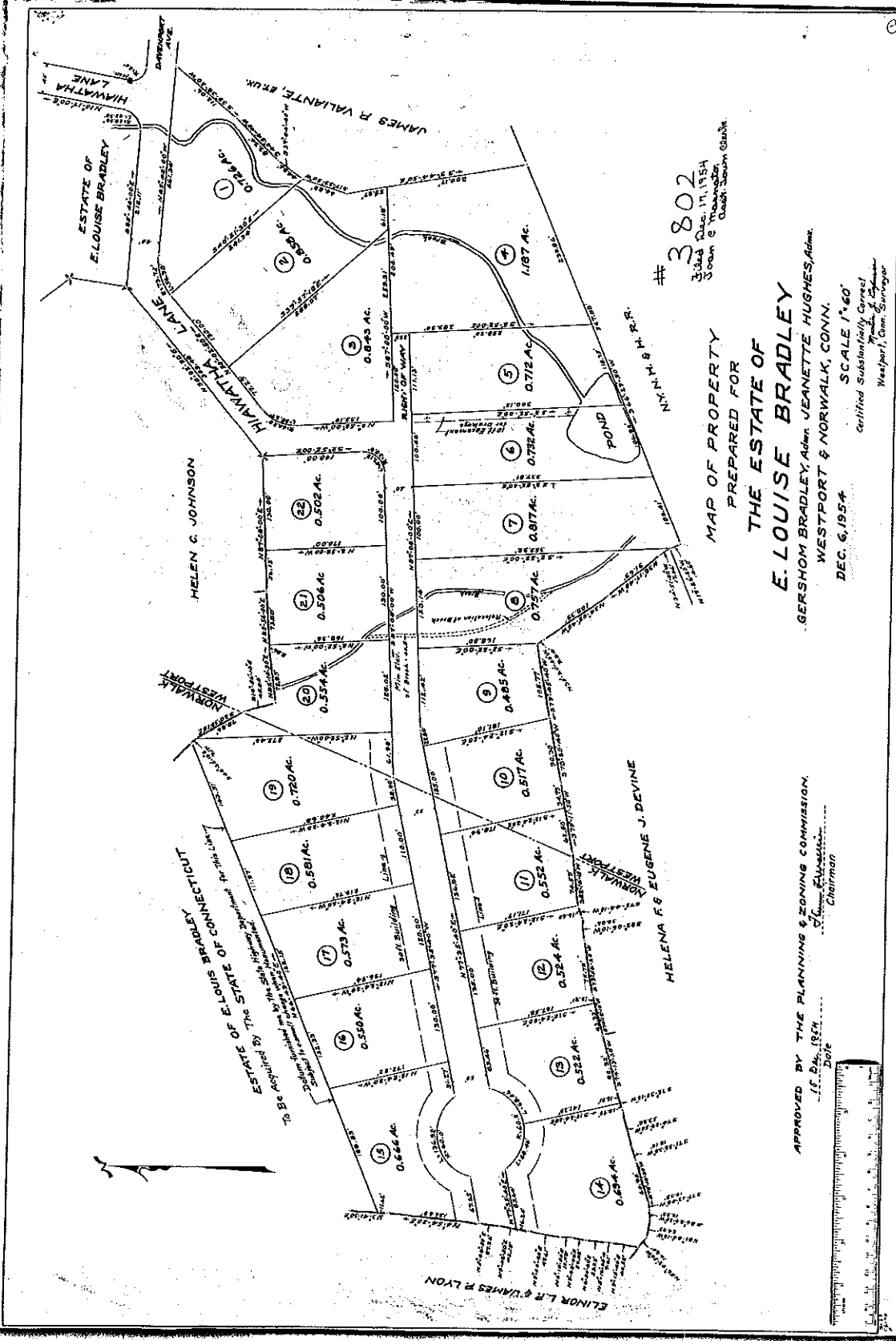
**Motion:           Rycenga                           Second: Davis**

**Ayes: Rycenga, Davis, Bancroft, Perlman, Corroon**

**Nayes:           None           Abstentions:   None           Vote: 5:0:0**





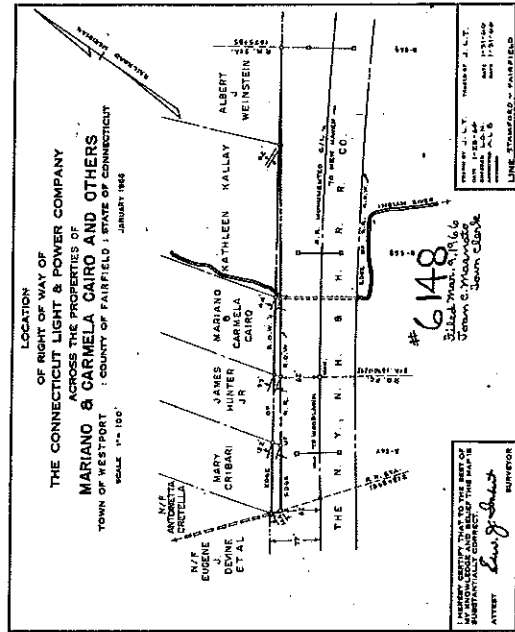


# 3802  
Filed Dec. 17, 1954  
John G. Thompson  
Cass, Conn. Clerk

MAP OF PROPERTY  
PREPARED FOR  
THE ESTATE OF

**E. LOUISE BRADLEY**  
GERSHOM BRADLEY, Adm. JEANETTE HUGHES, Adm.  
WESTPORT & NORWALK, CONN.  
DEC. 6, 1954

APPROVED BY THE PLANNING & ZONING COMMISSION  
DEC. 17, 1954  
Chairman



5267

B-14

From Indian Hill Road  
northwesterly to turn-  
around.

Town road to Davenport Avenue;  
Private road - the remaining part

*Linen plan & profile oct. 1960-*

1170 L.F.

Town accepted 12/17/52 - Map #3102  
*Prints of 25 built Indian River Culvert  
area of #358 Hiawatha, Lane*

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Westport, Connecticut, Code of Ordinances >> PART II - CODE OF ORDINANCES, TOWN OF WESTPORT >> Chapter 30 - ENVIRONMENT AND NATURAL RESOURCES >> ARTICLE IV. - WATERWAY PROTECTION >>

**ARTICLE IV. - WATERWAY PROTECTION** [16]

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- Sec. 30-81. - Purpose.
- Sec. 30-82. - Violations and penalties.
- Sec. 30-83. - Appeals.
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- Sec. 30-89. - Regulated activities.
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- Sec. 30-91. - Approval required for conduct of regulated activities.
- Sec. 30-92. - Information to be submitted to Flood and Erosion Control Board.
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- Sec. 30-94. - Final decision; commencement of activity.
- Sec. 30-95. - Review of decisions by RTM.
- Sec. 30-96. - Submission of applications for final approval.
- Sec. 30-97. - Notification of applicant and adjacent property owners required.
- Secs. 30-98—30-122. - Reserved.

**Sec. 30-80. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Permitted use* means any use of a waterway which does not disturb the natural and indigenous character of the waterway and is for the purpose of maintenance, conservation or restoration of property and drainage of soil, vegetation, water, fish, shellfish and wildlife, gardening or landscaping and does not involve disposition of material or fill.

*Waterway* means any river, stream, brook, watercourse or tributary, both fluvial and tidal, including any contiguous backwater, pond or other body of water or any floodplain, swamp, marsh, bog or other wetlands.

*Waterway protection lines* means those lines defining the limits of a waterway between which no person shall carry on, or permit to be carried on, an activity except as may be permitted by this article.

(Code 1981, § 148-2)

**Sec. 30-81. - Purpose.**

This article is hereby adopted by the RTM of the Town in order to protect all waterways of the Town from activities that would cause hazards to life and property and/or activities having adverse impact upon the flood-carrying and water-storage capacity of the waterways and floodplains, the flood heights and the natural resources and ecosystems of the Town, including but not limited to groundwater and surface water, animal, plant and aquatic life, nutrient exchange and energy flow, with due consideration given to the results of similar encroachments constructed along the reach of the waterway.

(Code 1981, § 148-1)

**Sec. 30-82. - Violations and penalties.**

Whoever violates any provisions of this article shall be punished by a fine of not more than \$90.00, and shall be liable to the Town for the cost of restoring the affected area as closely as possible to its condition prior to the violation. For the purposes of the fine provisions of this section, each day after the violator has received written notice that he or she is in violation of the article shall constitute a separate violation.

(Code 1981, § 148-18)

**State law reference—** Penalties for ordinance violations, C.G.S. § 7-148(c)(10)(A).

### **Sec. 30-83. - Appeals.**

Any person aggrieved by a final decision of the Flood and Erosion Control Board, Conservation Commission or the RTM made in accordance with this article may, within 30 days from receiving notice of its decision, appeal from such decision in the manner provided by C.G.S. § 8-8 for appeals from decisions of a municipal Zoning Board of Appeals.

(Code 1981, § 148-14)

### **Sec. 30-84. - Enforcement.**

The First Selectman shall designate agents who are members of the Conservation Department to enforce the provisions of this article. The enforcement agent(s) may seek such injunctive relief as may be necessary to halt any violation of this article by any person.

(Code 1981, § 148-15)

### **Sec. 30-85. - Notice of violation; time limit for corrections; extensions.**

Any violator of this article shall be given written notice of the violation by the Conservation Department. This notice shall be sent by certified mail, return receipt requested, and the violator shall have 14 days from receipt of the notice in which to correct the violation before action is taken to enjoin the violation or to fine the violator in accordance with the provisions of Section 30-86 of this article. A further extension of time may be granted by the enforcement agent(s) for good cause shown by the violator. When a violation has been corrected, the enforcement agent(s) shall so certify in writing to the property owner and shall so note in his or her records.

(Code 1981, § 148-16)

### **Sec. 30-86. - Authority of other bodies.**

- (a) Nothing in this article shall limit or restrict the State Commissioner of Transportation in exercising his or her authority over the harbors and navigable waters of the State, nor apply to dams, bridges, pipelines or other similar structures and appurtenances thereto, extending across any waterway, which otherwise comply with current laws and regulations.
- (b) The provisions of this section shall not be construed to limit or alter the authority of the State Commissioner of Environmental Protection over the tidal, coastal and navigable waters of the State and within stream channel encroachment lines established by said Commissioner pursuant to regulations of the Department of Environmental Protection promulgated pursuant to C.G.S. § 22a-343.

(Code 1981, § 148-17)

### **Sec. 30-87. - Establishment and determination.**

- (a) Waterway protection lines are hereby established on both sides of all waterways in the Town and are set at the 25-year storm flood elevation (mean sea level datum) along each edge of the waterway, except that the clear horizontal distance from the 25-year storm flood elevation of any such waterway shall be 15 additional feet on each side of the following waterways:
  - (1) Saugatuck River.
  - (2) West branch of the Saugatuck River.
  - (3) Aspetuck River.
  - (4) Stony Brook.
  - (5) Muddy Brook.
  - (6) Deadman's Brook.
  - (7) Sasco Brook.
  - (8) Indian River.

- (9) Poplar Plains Brook.
  - (10) Pussy Willow Brook.
  - (11) Silver Brook.
  - (12) Willow Brook.
  - (13) New Creek.
  - (b) The determination of the elevation of the 25-year storm shall take into consideration the effects of probable future developments.
  - (c) The position of the lines may vary from the 25-year storm elevation so as to minimize the area of land to be regulated when a portion of the inundated area below said elevation does not contribute to the flood-carrying capacity of the waterway.
  - (d) When the existing waterway, because of natural or manmade constrictions, is such that such lines cannot be established by standard engineering methods, a channel may be adopted, whereby the removal of such constrictions may be anticipated so that a reasonable delineation of the 25-year storm elevation may be established.
  - (e) When the 25-year flood boundary falls along the channel banks, the lines shall be placed at the top of each bank along the waterway.
  - (f) In no case shall a waterway protection line be less than 15 horizontal feet from each edge of the waterway or top of bank, whichever is greater.
- (Code 1981, § 148-3)

#### **Sec. 30-88. - Stream improvement projects.**

Notwithstanding the provisions of Section 30-87, in areas in which Muddy Brook or West Parish tributary are improved under a stream-improvement project to hold a 25-year storm within its banks, the waterway protection lines shall be set at three horizontal feet from the top of the bank of the improved waterway.

(Code 1981, § 148-4)

#### **Sec. 30-89. - Regulated activities.**

The following activities are regulated within said waterway protection lines: dumping, filling and transferring of any materials and the encroachment by any construction, building or portion of a building or other permanent structure(s) within said waterway protection lines.

(Code 1981, § 148-5)

#### **Sec. 30-90. - Permitted activities.**

- (a) If the Town Engineer finds that the proposed use, activity or project does not have adverse impact on flooding, drainage, erosion or the natural carrying and water-storage capacity of the waterway and involves only a permitted use as defined herein, then a recommendation for administrative approval, subject to the appropriate conditions, shall be made by the Town Engineer and forwarded to the Conservation Director. If the Conservation Director finds that the proposed use, activity or project does not have adverse impact on the natural resources and ecosystems of the waterway and the project involves only a permitted use as defined herein, then an administrative approval shall be issued by the Conservation Director, subject to the appropriate conditions.
- (b) Replacement or repair of any previously existing buildings or structures which do not conform to this article, which are subsequently damaged or destroyed due to natural causes, shall be permitted, provided that the replacement or repair of any such nonconforming building or structure shall be commenced within nine months after the damage or destruction. In addition, the plans for such replacement or repair must be approved by the Conservation Director and the Town Engineer. Such nonconforming buildings or structures shall not be extended or expanded, except to raise the finished floor elevations to conform to the requirements of the federal government which are imposed as conditions for the construction of flood control projects.
- (c) Projects involving maintenance of existing structure(s) or restoration of natural resources which are approved by the Conservation Director and the Town Engineer shall be permitted within said waterway protection lines, provided that they are in compliance with current laws and regulations. Such nonconforming building or structure shall not be extended or expanded, except to raise the finished floor elevations to conform to the requirements of the federal government which are imposed as conditions for the construction of flood control projects.

(Code 1981, § 148-6)

#### **Sec. 30-91. - Approval required for conduct of regulated activities.**

Written applications to conduct a regulated activity shall be filed with the Conservation Department. Applications for regulated activities that are not permitted pursuant to Section 30-90 shall be considered by the Flood and Erosion Control Board and the Conservation Commission. Only those regulated activities that are not permitted pursuant to Section 30-90 will require the approval by both the Flood and Erosion Control Board and the Conservation Commission. Only completed applications, on the form supplied by the Town, shall be considered by the Flood and Erosion Control Board and the Conservation Commission. Failure of an applicant or his or her representative to sufficiently answer inquiries at a meeting of either the Flood and Erosion Control Board or Conservation Commission may be sufficient grounds for denial of an application. Each body shall render a written decision to the RTM Moderator within 15 days after the second regularly scheduled meeting following the date the application is filed. Each body shall notify the applicant by certified mail of its decision within 15 days from the date of the decision. Failure of either body to act within the prescribed time period shall be deemed an approval of the application by that body.

(Code 1981, § 148-7)

#### **Sec. 30-92. - Information to be submitted to Flood and Erosion Control Board.**

An applicant shall submit information to the Flood and Erosion Control Board showing that such activity will not cause flooding, drainage, erosion and/or related conditions hazardous to life and property and will not have an adverse impact upon the flood-carrying and water-storage capacity of the Town's waterways, including but not limited to the impact upon flood heights, hydrological energy flow, maintenance of essential and natural patterns of water circulation, drainage and basin configuration and maintenance of freshwater and saltwater exchange through the placement of culverts, tide gates or other drainage or flood-control structures.

(Code 1981, § 148-8)

#### **Sec. 30-93. - Information to be submitted to Conservation Commission.**

An applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and/or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystems of the waterway, including but not limited to impact on groundwater and surface water, aquifers, animal, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.

(Code 1981, § 148-9)

#### **Sec. 30-94. - Final decision; commencement of activity.**

- (a) The Conservation Commission may grant or deny permission to conduct a regulated activity based on a finding of the effect of the obstruction or encroachment on the flood-carrying and water-storage capacity of the waterways and floodplains, flood heights, hazards to life and property, the protection and preservation of the natural resources and ecosystems of the municipality, including but not limited to groundwater and surface waters, animal, plant and aquatic life, nutrient exchange and energy flow, with due consideration given to the results of similar encroachments constructed along the reach of the waterway.
- (b) The applicant may commence any permitted activity no earlier than 30 days after receipt of the final decision of the Conservation Commission.

(Code 1981, § 148-10)

#### **Sec. 30-95. - Review of decisions by RTM.**

The RTM shall have the right to review any decision(s) of the Flood and Erosion Control Board and/or the Conservation Commission. Such right of review shall include the ability to reverse any decision of either or both reviewing bodies. Such right of review shall be exercised only upon the written petition for review submitted by two members of the RTM or 20 electors of the Town of Westport, which petition must be received by the RTM Moderator or Town Clerk within 30 days from the date a decision is rendered by the latter of the two reviewing bodies. The receipt of such a petition for review shall prohibit any applicant from commencing the proposed activity until receipt of the RTM decision. The right to review of the RTM must be exercised within 90 days after receipt of the petition for review. The Town Clerk shall give written notice of the decision of the RTM by certified mail to the applicant within 15 days of the RTM action. If the RTM fails to act on the petition for review within the prescribed time period, the application shall be deemed approved.

(Code 1981, § 148-11)

#### **Sec. 30-96. - Submission of applications for final approval.**

All applications submitted by the Town of Westport or by any board, commission, department or other subdivision of the Town shall be submitted to the RTM for final approval; however, such applications must first be filed with the Conservation Department. The Conservation Department will submit the application to the Flood and Erosion Control Board and the Town Engineer for comments and recommendations. Each reviewing body shall submit its written decision and recommendations to the Moderator of the RTM within 15 days after the RTM's second regularly scheduled meeting following the date the application is filed with the Town Engineer. Failure of either body to submit such written decision and recommendations within the prescribed period shall be deemed an approval. In the event that one or both of the bodies fails to act within the prescribed time period, that body shall give notice to the Moderator of the RTM that the application has been deemed approved by that nonreviewing body. The RTM shall then give final approval or denial to the application within 90 days from the date of receipt by the Moderator of the latter of the written decision or notice by each body. Failure of the RTM to act within the prescribed time period shall constitute an approval of the application.

(Code 1981, § 148-12)

#### **Sec. 30-97. - Notification of applicant and adjacent property owners required.**

An applicant shall be given written notice by certified mail at least 14 days prior to the date on which his/her initial application shall be reviewed by a municipal board or commission acting under this article. If the board or commission extends review of the initial application, the applicant shall be given written notice by certified mail at least seven days prior to the date on which his/her initial application shall be given continued review; and further, such seven-day notice shall be required for every continuance thereafter. In addition, the applicant shall submit the names and addresses of all property owners adjacent to the applicant's property. Said adjacent property owners shall also be given written notice at least 14 days prior to the date the initial application is scheduled to be reviewed by a municipal board or commission acting under this chapter. If the board or commission extends review of the initial application, any adjacent property owners shall also be given written notice at least seven days prior to the date on which the initial application is scheduled for continued review; and further, such seven-day notice shall be required to be provided for said adjacent property owners for every continuance thereafter.

(Code 1981, § 148-13)

*Editor's note—*

The 1981 Code stated this section was adopted on October 2, 1990 (with an effective date of October 12, 1990).

#### **Secs. 30-98—30-122. - Reserved.**

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#### **FOOTNOTE(S):**

<sup>(10)</sup> *Editor's note—* The 1981 Code stated this article was adopted on December 6, 1988 (with an effective date of December 16, 1988). ([Back](#))

<sup>(16)</sup> **State Law reference—** Municipal regulation of wetlands and watercourses, C.G.S. § 22a-42 et seq. ([Back](#))